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The Washington Monthly

NOVEMBER 1980 / $2

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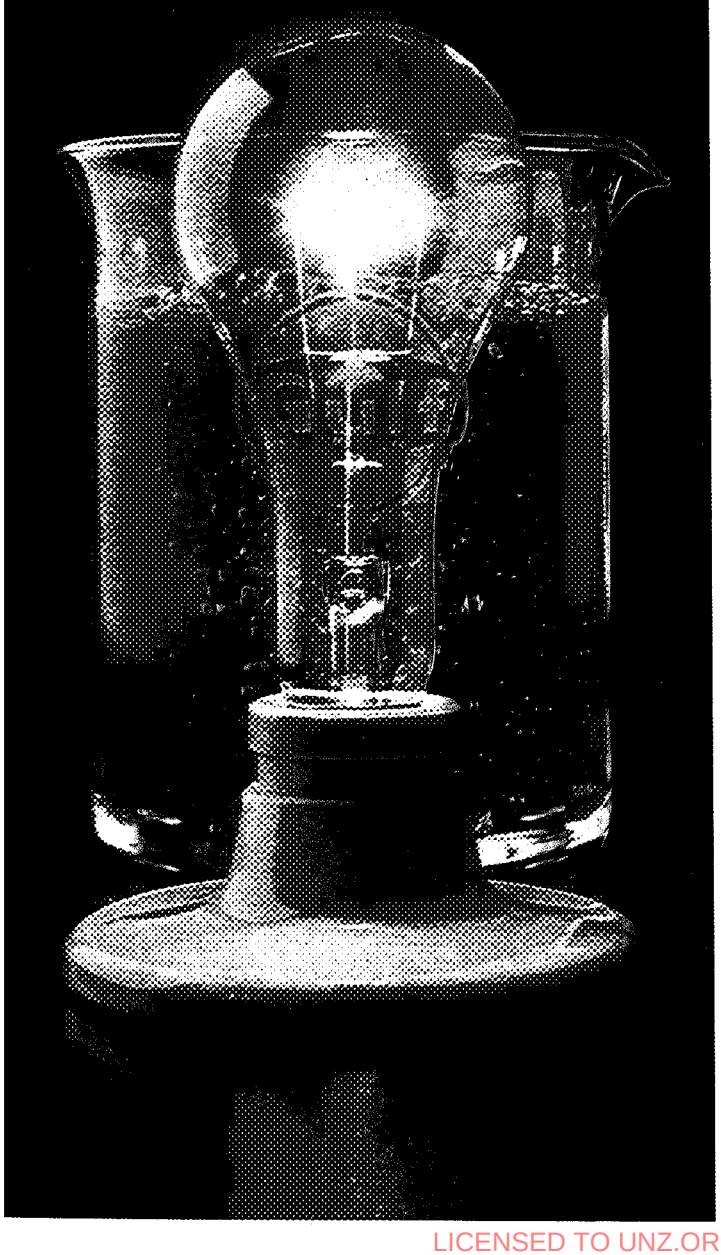

"You probably remember from grade-school science that water is two parts hydrogen and one part oxygen," says Dr. John Norman.

"Here at General Atomic Company, a subsidiary 50% owned by Gulf Oil, a project is under way to extract hydrogen from water for use as a fuel: for heating, cooking, or anything that now uses petroleum or natural gas.

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Letters

Pie-Slicers

In Robert Reich's otherwise fine article ["Pie-Slicers vs. Pie-Enlargers," September] *The Washington Monthly* sharpens its sword and singles out Harvard Business School for specializing in turning out "hired-gun managers" responsible for the current state of U.S. business. It would be nice if the problems were that simple. Unfortunately, the general public's preference for consumption rather than saving, our young people's expectation for advancement, the tax laws and other types of constraints and inducements that the government has interjected into the picture, and a variety of other factors are all interlinked in the expansion of the "pie-slicer" class. Business School graduates flock to consulting firms and corporate staff positions not because we train them to (in fact, many of us actively discourage it) but because they find the highest salaries and promises of advancement there. They don't go to steel companies at least partly because a variety of governmental policies and exogenous shocks have made that industry an unpromising place to begin one's career. In a sense, we are reaping the future that we all participated in planting.

ROBERT H. HAYES
Cambridge, Massachusetts

The writer is a professor at Harvard Business School.

Nobody Answers

After almost 30 years of earnest and conscientious effort to improve government management and cost-effectiveness, it is disheartening to be misrepresented as being narrow, arbitrary, and capricious in the pursuit of those goals ["The Most Powerful Nobody in Washington," by Gregg Easterbrook, September].

Having been victimized by the Puritan Ethic early in life, I do hold many traditional values which some may find difficult to accept. It may also be that the standards toward which I have striven are too high, but I abhor indolence and I believe that strict accountability and personal dedication are highly desirable for those holding positions of public trust. I do take strong exception to anyone's allegation that I have been rude or abusive to those whom your sources refer to as "little people" or "inferiors." I believe that all persons are very special creations of the Almighty and that none are "little"—many can attest to my lifelong campaign against the use of that particularly demeaning term.

As for my role as Professional Staff Member of the Senate Appropriations Committee's Subcommittee on Foreign Operations, let me state that if I had one quarter of the power you attribute to me, U.S. foreign policy would today be a credible, effective, and cost-conscious effort serving both the downtrodden poor and vital U.S. security interests. Unfortunately, in my humble opinion, it now does neither.

WILLIAM H. JORDAN
Washington, D.C.

Hoover vs. Germans

The Washington Monthly usually does an excellent job, but every so often you wander into fields you know nothing about. In "Tilting at Windmills" for September you report that Seth Kantor of *The Atlanta Constitution* had just "revealed" that the case of the eight German saboteurs in World War II "wasn't cracked by the skill of the FBI but by an informer among the saboteurs—a fact that Hoover, with characteristic manliness and generosity, spent the rest of his life trying to hide."

There were, in fact, two informants: Ernest Burger and George Dasch. Mr. Hoover wanted to make the arrest of the eight men known but was dissuaded by the argument that it was better to mystify the Germans. Everyone within the FBI, however, was informed of the actual circumstances, and as soon as the war was over, Mr. Hoover let the full facts be known. In 1956, Don Whitehead of *The New York Herald-Tribune* published his book, *The FBI Story*, which—with a foreword by Mr. Hoover—carried Mr. Hoover's implicit endorsement. The story of the two informants appears on pp. 198-207. It created no stir at the time, because the facts were already widely known. Mr. Kantor's "revelation" is a complete sham.

An additional point: Although the presence of the saboteurs was first uncovered when they met a Coast Guard patrol on Long Island, the Coast Guard failed to notify the FBI immediately in hopes of solving the case itself. If my memory is correct, the first word of the encounter to the FBI came not from the Coast Guard but from a Long Island police chief whom the Coast Guard had consulted. This was a flagrant violation of investigative jurisdiction. Mr. Hoover could have made a public issue of

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it, but he saw no reason to besmirch the Coast Guard for the actions of a few ambitious officers.

ALEXANDER B. ADAMS
Rowayton, Connecticut

The editor replies:

A re-reading of Whitehead's famous book confirms that it was a single informer—George Dasch—who panicked, after trying to bribe a young Coast Guardsman to forget that he had encountered the saboteurs moments after they landed on Long Island. The Guardsman took the money and ran—but straight to his station. The saboteurs made it to New York, but Dasch, assuming that they were being hunted, lost his nerve and told Burger he was going to give up. Burger agreed; Dasch went to Washington and called the FBI. On the basis of the leads he provided, the other saboteurs were rounded up.

Whitehead's FBI-approved account is curious. He doesn't exactly obscure the fact that the FBI couldn't have found the saboteurs without Dasch's help. But he manages to downplay the informer's importance, leaving a vague impression—at least with non-critical readers, of which the book had a great many in the 1950s—that the FBI would have rolled up the saboteurs on its own. This is the kind of smoke-and-mirrors publicity that Hoover always encouraged.

I don't know what the Coast Guard hoped to accomplish on its own, but Whitehead's book, if accurate, seems to contradict Mr. Adams's memory. The saboteurs landed at night and were discovered by the single Guardsman who then escaped them by pretending to take Dasch's bribe. By the time he returned to the scene with reinforcements, the saboteurs were gone. In the morning, their tracks were found, leading to a buried cache of equipment. Shortly before noon, the Coast Guard called the FBI.

The Joy of SES

Leonard Reed's article on the Senior Executive Service is full of misinformation. . . . You have obviously timed this article, together with *The Washington Post,* in an effort to influence the President's decision on the October federal pay raise. Why? Could it be because you are owned by the *Post* and printed by the *Post*? Is this an effort to bring down area wages, because of the *Post's* troubles with the printers and other media unions?

DOROTHY JOHNSON
Fairfax, Virginia

The editor replies:

Wages at *The Washington Monthly* have been described as "the small end of nothing, shaved down to a point," but this is obviously a vicious slur which has nothing to do with our editorial policies. We are neither owned nor printed by *The Washington Post,* and close readers of "Tilting at Windmills" know that our views and the *Post's* frequently differ. We do try to influence the President—can't deny it—but it's been a matter of some concern to us that he so seldom listens.

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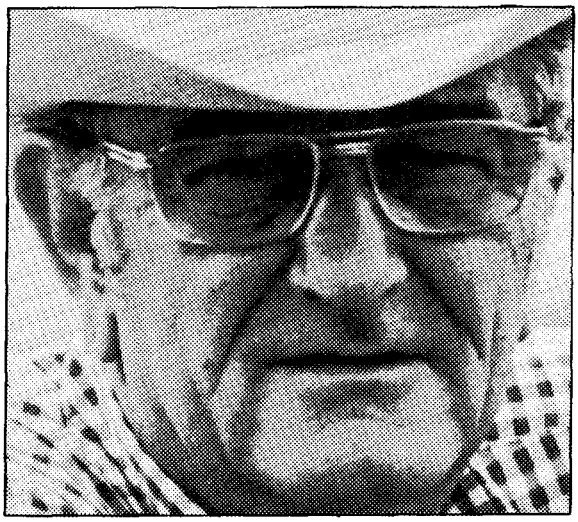

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Tilting at windmills

A federal court has awarded a Bolivian woman $56,000 in back pay from her employers, who it seems brought her to the U.S. as a maid and then never paid her, holding her in virtual slavery. If ever there was a tiny tip to a big iceberg, this is it. All over the country, illegal immigrants from Latin America are being exploited by American families, who get away with underpaying them because the employees are afraid of being reported to the Immigration and Naturalization Service. Among the worst hypocrites are liberal American career women liberating themselves by enslaving other women, who presumably do not qualify for liberation because they are Hispanic. If you doubt this is a scandal, make the point at the next upper-class gathering you attend. Note the response of the female guests. You will not, I promise, be overwhelmed by waves of affection.

If you doubt that the American legal system serves the rich, consider the case of the paper bag versus the leather pouch. The U.S. Court of Appeals has held that paper bags may be searched without a warrant, but that your belongings are immune from warrantless search if you keep them in a zippered leather pouch. So be sure to get a Gucci for your gun....

The Washington Post is the only morning paper in town—and knows it. Suppose your copy hasn't arrived by 7:45. You call the *Post*. You get a recording saying the circulation department will not be open till 8. You call back at 8. You get another recording saying that your call must be received by 8:30 if you're to get a paper that day—but all circulation lines are busy. You continue to hear that recording each time you call back, till well past 8:30. But don't think the *Post* is indifferent to your plight. To help you control your temper, it provides a soothing Muzak background to each announcement....

Figure the jeans craze has gone as far as it can? Here's the latest ad from Woodward and Lothrop, a Washington department store: "Calvin Klein gets it on, Baby!" reads the head. The text says: "Because life is more than strained plums and lullabies, status denims for the stroller set. Authentic pre-washed cotton blue jean diaper covers that snuggle a bottom as only Calvin Klein can." The next ad you see is sure to be from Jordache, featuring infants in sexually suggestive poses....

Just in case you thought there was no longer any danger of fascism in America, be advised that G. Gordon Liddy has been inducted into the Legion of Honor of the New York City Police Department....

The Supreme Court's decision in the Frank Snepp case—see Joseph Nocera's article on page 11—has to be the lowest point in the history of free speech since *United States v. Dennis* permitted the Smith Act to be used to imprison American communists for the mere advocacy of Marxist doctrine. Victor Navasky's new book *Naming Names*, by the way, reveals the ironic background of that ruling. It seems American communists had at one time actually supported the Smith Act—because they wanted it used against American fascists....

Paul Burka, writing in *The Texas Monthly*, reveals that the greatest danger Texans faced during Hurricane Allen, July's "Storm of the Century," came not from the 200-m.p.h. winds, but the National Weather Service. Through the entire episode the Weather Service refused to issue specific information regarding the location and ferocity of the storm.

Why? The Weather Service has reorganized into a computer-linked chain of command. "The new structure has all but eliminated the old-line local forecaster who drew his own maps, called his own shots, and above all, knew his home territory," Burka

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explains. Advisories must be passed from local stations to regional centers to the National Hurricane Center in Miami. The officials who finally release information have no personal knowledge of the affected areas. The Weather Service said, for instance, that 10- to 15-foot tides might hit parts of Galveston Bay. It didn't say *which* parts. Galveston Bay is 280 miles long.

The new structure also requires so many intermediaries to review and approve bulletins that delays and excessive caution are inevitable. The Miami center did not announce its "prediction" for Allen's landfall until after the storm had moved inland....

One of the most grating chauvinistic phrases in our language is "and his lovely wife." Wives are routinely introduced this way, as if to insist that their only value is as ornaments, which denies them even the status of sex objects. No man is ever introduced as "her dashing husband." So you'd think women would be sensitive to this automatic slight, and avoid it. When Education Secretary Shirley Hufstedler was introducing Abelardo Valdez, the U.S. Chief of Protocol, to a hearing in San Antonio, she announced, "Ambassador Valdez and his lovely wife Marguerita."

If I were a Jew, I would be troubled by what happened at the B'nai B'rith convention in September. All three presidential candidates groveled. This is the kind of thing that makes the Arabs desperate—and violent....

The Washington Monthly's Bureaucratic Bravery Award goes to Douglas Costle of the EPA and his assistant, William Drayton, who had the courage to oppose Carter's bail-out of the steel industry. If steel companies need money for research and plant modernization—routine costs of doing business for all industries—why don't they take it out of their own coffers? The steel industry distributed as dividends, and invested in non-steel activities, a total of $1.1 billion in 1979 *alone*...

Are the values of American youth sweeping the world? Consider that a recent survey of West German young people found that their main goals are material security, professional success, and being "left alone."....

If the B'nai B'rith meeting was a low point for American Jewry, the September "Legislative Weekend" of the Congressional Black Caucus, held at the Washington Hilton, was an even lower point for black Americans. Five thousand of the country's black leaders spent hundreds of dollars each to imitate the most conventional gatherings of the white middle class. Most of the "Legislative Weekend" was taken up with singing groups and fashion shows. When they finally got down to business, it was smugly self-congratulatory stuff devoid of passionate concern about either the issues or the candidates. The highlight came when the "Chair's Award," top honor of the Caucus, was bestowed on former Congressman Charles Diggs. Diggs was cited for, among other things, his "contributions to the cause of justice." Unfortunately he was unable to accept in person because he is being detained in a federal penitentiary, serving time on his kickback convictions....

New Journalism has finally been institutionalized. Here are the words that began three articles on the front page of October 7th's *Washington Post*: "It was almost 1 a.m. in the cold, gray chill..." "One Saturday last summer..." "A misty rain dampens the sidewalk."...

If you're a lush, and an early riser, be sure to fly Southwest Airlines. A current ad for Southwest shows a picture of a cocktail, and offers these words:

"People have lots of words for airline meals. Most of them can't be printed here. That's why we prefer to serve refreshments of the liquid variety. Drinks. And they're free weekdays from 7 a.m. to 7 p.m.

"You see, Southwest flights are short. And we figure our attendants' time is better spent pampering you than rushing to dish out dried-up chicken breasts. So if you're looking for a meal, head for your favorite restaurant. If you want love Southern style, have a drink on us!"....

Remember that civil servant in Kansas City, James T. Wilson, whose defense for operating his private business on government time was that such practices were routine among federal officials? He resigned five days after a jury found him guilty of using a government secretary to do

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work for his personal enterprise. But a few weeks later the judge overturned the verdict, on the grounds, not that Wilson hadn't used the secretary, but that he had lacked criminal intent. Wilson then asked the Merit Systems Protection Board to reinstate him with back pay, alleging that he had resigned only because of "pressure." Now an administrative judge from the board has ordered that Wilson be reinstated and that he receive $20,000 in back pay. If this doesn't make you wonder a bit about the wisdom of our system of civil service, consider Wilson's fallback defense: When he wasn't arguing that everybody does it, he said he didn't have anything else to do with his time, because, according to the *Kansas City Times*, "his government division was not assigned regular duties by regional officials."...

If you've ever flown transcontinental, you know that jet lag leaves you about as alert as a figurine in Madame Tussaud's wax museums. But that's just from sitting. How would you feel if you'd been working the whole time? Imagine the Eastern pilot on the run that leaves Atlanta at 11 p.m., stops in St. Louis and Portland, and arrives in Seattle at 4 a.m. local time. He must try to sleep, then leave Seattle at 2:30 a.m. the following morning to reverse the route.

Scheduling that defies the well-known rhythms of the body clock causes drowsy pilots. Yet it's common in the airline industry, and is suspected of being a factor in several crashes, including those of a Western Airlines jet at Mexico City, and a Pan Am plane at Bali. It's especially maddening because this is an area where air safety could be improved, not with costly new technology, just sane pilot schedules....

It seems that Frank Jameson, husband of Eva Gabor and a director of several defense companies, was planning to throw a swank party for the air attaches of 52 foreign embassies, from Argentina to Zaire. Gossip columnist Maxine Cheshire got wind of this, and was upset. She reported that the party would be attended by "top brass" from the Pentagon and the American military escorts for the foreign attaches. It's illegal for Defense Department personnel to accept social entertainment from defense contractors, she pointed out.

Cheshire was right, of course. She also could have noted that the party was being held, not in Washington, but *Los Angeles*. Just what national interest is served by flying the attaches, the generals, and a phalanx of Pentagon flunkies to Los Angeles? So they can get Zaire's advice on the defense of the Los Angeles International Airport?

There has been a disturbing similarity in the perfor-nce of the White House press corps and the White House staff during the past four years. The press thinks it is getting at the truth when it takes whatever information the administration hands out, and then asks tough, hostile questions at White House press conferences. The bright young lawyers on Stuart Eizenstat's staff have tried to run the government in a similar fashion—by poring over the data and decision memoranda handed up from the various departments, and then subjecting a few senior officials of those departments to skeptical questioning.

Behind both these approaches is the Perry Mason Fallacy—the idea that a smart lawyer who "asks the right questions" can extract the truth from the person he is cross-examining, even when that person doesn't want to tell it or doesn't know it. In fact, cross-examination alone is seldom sufficient, because it still leaves the questioner helplessly dependent on the questionee for his information. A truly effective questioner makes sure he has independent, first-hand knowledge against which to test the answers he gets. The best trial lawyers don't rely on courtroom questions alone to uncover the truth—they go out and interview witnesses beforehand, getting a personal sense of their credibiilty. Remember that Mason and Paul Drake spent the first 40 minutes of every show investigating the facts on their own.

For the press, really uncovering the truth would require reporters who spent less time being nasty to the President and Jody Powell, and more time asking ques-

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tions out in the country to find out if the White House knows what it is talking about. And for the White House, really running the government would require staff members to develop lines of communication to the levels of the bureaucracy below the top echelons, so they could find out for themselves which assistant secretaries were telling the truth, which programs were working, which tanks and missiles weren't. For example, if instead of grilling National Weather Service administrators about the cost-benefit ratios of their new computers, White House staff people had paid a few calls to people in Texas, they would have known the dangers which the Weather Service's "improvements" were creating. Unfortunately, this sort of digging is hard work. It is much more glamorous to ask those tough questions in an elegant White House room, where it's always warm in winter, cool in summer, and as far as possible from what's really going on.

In one recent issue of *The Federal Times*, a story began with this paragraph: "HONOLULU—The 1000 federal employees who streamed into Honolulu for the American Federation of Government Employees 27th biennial convention were happy and miserable. They were happy because they were in Hawaii. They were miserable because they were federal employees." A few weeks later, another story in another issue of the same publication showed just how miserable their lot appears to many of their fellow citizens: "BALTIMORE —Federal employment officials here now estimate that 26,205 applications have been received for 70 jobs with the Social Security Administration. More than 12,000 people queued up at the Social Security offices in Baltimore and Woodlawn and the U.S. District Court house in Baltimore on the first day for submitting applications."

As a non-farm person who once made the same mistake and was teased about it for the next 20 years by his parents, both of whom were raised on a farm, I quote with sympathy and delight this paragraph from Judy Flander's report of her recent interview with Priscilla Presley:

"Why, they make the veal stand up in tiny little pens, and they purposely make them anemic, so they'll have very white meat," she says, aghast. 'Calves! Calves!' corrects a publicist in an urgent whisper.". . . Flander didn't say whether Presley went on to criticize cruelty to Welsh rabbits....

I have from time to time flirted with the notion that a dedicated conservative might make some useful reforms in this government, but I realized I was not going to vote for the Republican candidate for president on the afternoon of October 9, when I learned that he had sought and won the endorsement of the National Maritime Union and of the Teamsters. Surely a red-blooded conservative from the heart of America would stand up to crooked labor unions, at least if he really believed all those things he had been saying over the years. Another indication that he hadn't meant a word of it had come the day before, when he promised the National Association of Retired Federal Employees that he would protect the twice-a-year cost-of-living increases in their pensions. These increases (which now have many people making far more for being retired than they were ever paid for working) are just the kind of thing a fiscally responsible conservative should oppose....If you doubt that the automatic pension increases threaten to bankrupt the nation, read the excellent series on the subject in last May's *New York Times*....

There is one area where the press has been making the kind of investigations that White House reporters and staff members prefer to avoid—the area is defense. An example comes from Nina Bondarook of the *Colorado Springs Sun*. She went to Fort Carson to check on the readiness of a tank battalion assigned to the Rapid Deployment Force. She talked to the battalion commander, who told her "We're ready." But then, instead of contenting herself with some comment like, "But Colonels have been wrong before," she interviewed the enlisted men,

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who explained how their training had been inadequate....

If the Republican nominee has caved to the federal employees, so has the Democrat. He threw away his budget and gave this already overpaid group (if they aren't well paid, what were those 26,000 people in Baltimore doing?) a 9.1-percent pre-election raise, the largest in 22 years. If federal employees know that they are protected against inflation by their two annual salary increases—remember, in addition to the October increase they get their annual merit raise—and protected in retirement by the twice-a-year cost-of-living increase, why should they feel any motivation to fight inflation in their government work?

Mr. Elizabeth Taylor will not be thrilled when he reads Bill Gulley's book, *Breaking Cover*. In it Gulley recounts how President Ford sought Richard Nixon's advice on whether Ford could unload an unwanted White House aide by appointing him Secretary of the Navy, without endangering the nation's naval posture. Nixon told Ford not to worry. "It's a job anyone can do," the former president is quoted as saying. "Why, we even had John Warner in that job."...

In their new book, *The Cola Wars*, J. C. Louis and Harvey Z. Yazijian point out an unheralded act of patriotism by our energy regulators. During the 1973 "Arabian oil crisis," Nixon (the beneficiary of enthusiastic support from PepsiCo) saw to it that the soft drink industry was awarded 100-percent priority status in gasoline allocations. This put our vital security interest in the transportation of carbonated calories on the same footing with ambulances and fire trucks.

Various regional energy officials protested the ruling. But in July 1979, at the height of the "Iranian oil crisis," the Department of Energy reaffirmed the special status. The vote of confidence was issued by just-appointed Energy Secretary Charles Duncan, former president of Coca-Cola....

When you publish a small magazine like this one, you often wonder if you are having any effect at all. Occasionally there are signs that all is not futile.

One example: In our third issue, published eleven-and-a-half years ago, we described the end-of-the-fiscal-year spending spree. We have since frequently deplored the media's ignorance of this phenomenon, and of all it explained about what was wrong with the government. Now in the last six months, both *Newsweek* and *The Washington Post* have run major articles on the subject, there have been congressional hearings, and even TV editorials.

In our early years, we also began trying to examine the effectiveness of our defense and the vitality of our industry, trying to free ourselves from the usual conservative and liberal prejudices. In the beginning we were a bit lonely, but in the last year or so we've had a lot of company, including particularly imaginative articles on the nation's entrepreneurial shortage in *The Atlantic* and the *Harvard Business Review*. On the subject of defense, as noted above, there has been a veritable explosion of good reporting, with major series appearing everywhere from the *Colorado Springs Sun* to *The Los Angeles Times* to *The Daily Oklahoman* to *The New York Times*.

Now, obviously all this is not solely attributable to us—and while satisfying, it does not add up to tremendous influence on the events of our time. Yet I would rather edit this magazine than do almost anything else. There are only a handful of jobs in government in which I think I could have even the modest effect that I have here. And this, I think, is a clue to a common complaint one hears today: Why are the candidates so weak? The reason is that there are so few jobs in government that have real power to affect events. Few government officials have genuine control over their programs, or can hire and fire anyone other than a secretary and a few assistants. You can't change the world that way. All you get is a title that will look good in your obituary—and the kind of men satisfied by that are not the kind of men we need.

—*Charles Peters*

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Le Couvert Blown: William Colby en Français

Finally, proof that Frank Snepp was framed.

by Joseph Nocera

"We are trying, or I am trying, inside the Central Intelligence Agency... to educate our people on what the Publications Review Board does. I try to show them that we are there to help them, that we are a service-oriented board. We are not censors. Indeed, in [the regulations] Admiral Turner insisted that the one line be put in there that says approval will not be denied solely because the subject matter may be embarrassing to, or critical of, the agency. That was one of the refinements in the regulations, and it is assiduously followed. Mr. Peyton, our lawyer, keeps our feet to the fire...."

Herbert E. Hetu said that. You may never have heard of him, but Herb Hetu is one of Washington's most-quoted people. As the CIA's man in charge of public relations, it is he, more often than not, who is the anonymous CIA spokesman doling out a no-comment or an unattributable semi-clarification when reporters come calling. But that's not all Herb Hetu does for the CIA. He also serves as chairman of the Publications Review Board, which is charged with pre-screening all CIA-related manuscripts written by current and former employees, and it was while wearing this particular hat that he made that statement.

The date was March 6; Hetu was testifying before the House Select Committee on Intelligence. Three weeks earlier, the Supreme Court had handed down its extraordinary decision ruling that ex-CIA agent Frank Snepp had sinned mightily by publishing a book about the agency without first submitting it to Hetu's board for approval. During the court proceedings, the CIA had not argued its case on the basis that Snepp's book contained any classified information. It had contended simply that Snepp violated the so-called "secrecy agreement," a document all agents sign when they join the CIA, pledging to give their employer the right to review anything they might ever write about it. In ruling for the CIA, the Court agreed that this was a transgression so grievous that Snepp deserved to be soundly cuffed. So it stipulated that the CIA could go back to court to collect the $200,000 or so that Snepp had earned in royalties from his book—leaving him penniless, or close to it.

Frank Snepp's *Decent Interval* had been published in January 1978 to general acclaim. It was a devastating inside account of the performance of the American government—and the CIA in particular—during the fall of South Vietnam. His conclusions did not make for light reading: he believed, for example, that thousands of Vietnamese who had faithfully served the American cause were coldbloodedly abandoned to an almost certain death because their American mentors didn't bother to destroy confidential employment files. Snepp was bitter about the CIA, but anyone who read his book knew he wasn't trying to destroy the agency—he was

Contributing editor Joseph Nocera currently lives, works—and reads—in Paris.

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trying to reform it, by refusing to participate in a cover-up.

In the wake of the *Snepp* decision, as you may recall, there was a cacophony of protest. Partly this was because Snepp's book was so widely considered a substantial contribution to our understanding of the ways government can go awry. But it was also because the *Snepp* decision seemed to be such a clear example of arbitrary justice—indeed, of revenge. Other authors had violated the "secrecy agreement" over the years without being made to suffer for it. Now Snepp was being singled out for prosecution and punishment. The double standard seemed clear enough.

Herb Hetu would take umbrage, no doubt, at such a suggestion. Certainly he took umbrage last March when congressmen raised questions about double standards and (heaven forbid) censorship. They wanted to know exactly how the CIA went about the business of screening manuscripts, and Hetu was eager to reassure them. He had briefing books describing the evolution of the CIA's regulations. He had flow charts showing each step of the manuscript review process. He had statistics purporting to prove that the CIA exacted few changes from its agents-turned-authors.

"We do not clear manuscripts," he said twice that morning. The board merely "reviewed" them. He chose his words carefully, projecting a sense that the CIA was mainly interested in facilitating, negotiating, compromising. The whole procedure sounded eminently reasonable. All the CIA wanted, Hetu insisted again and again, was the right to protect classified information. Other than that, agents were free to say whatever they wanted.

Snepp maintains that he didn't show his manuscript to the CIA because he was sure the agency would try to block publication outright or, failing that, would try to gut the manuscript while delaying publication by tying him up in legal knots. Yet Hetu insists—*insists!*—that this would not have happened, that while there is some classified information in *Decent Interval*, there isn't much, and the whole thing could have been handled easily. "If he had submitted the book to the board," Hetu testified, "it could have been published with a few changes and would not have been censored....The criticism would have remained intact. We would not have hurt the sense of the book at all." If only Snepp had been less headstrong, in other words, all of his misery could have been avoided—so he brought it on himself, and we shouldn't spend time getting mad about what happened to him.

Thus, in the aftermath of the *Snepp* case we are presented with two versions of reality that are completely at odds—Snepp's and Hetu's. With no way to test the contentions of either man, we are hard pressed to answer the disturbing questions raised by the case. Mostly, we are forced to fall back on old prejudices: traditional CIA defenders side with Hetu, its critics side with Snepp, and the whole brouhaha ends inconclusively.

Now there is a place, however, where the contentions of the two men can be tested with some certainty, and where we can reexamine basic questions about double standards. That place is in the foreign translation of another book, written by another ex-agent. Oddly enough, the book is William Colby's *Honorable Men: My Life in the CIA*.

The French Correction

Decent Interval and *Honorable Men* are in most respects dissimilar. Where Snepp is incisive, Colby is banal; where Snepp's book is important, Colby's is mostly self-serving. But in one surprising way they are alike. For it turns out that Colby, though a former CIA director and a staunch believer in the need for secrecy, himself violated the "secrecy agreement" when his memoirs were published. In fact, if you compare the ways the two men broke the agreement, you can't help concluding that it is Colby who has committed the more serious offense. Here's how it happened:

Early in 1978, several months before *Honorable Men*'s scheduled May 1978 publication date, Tony Cartano, the editor of a small French publishing house, attended a book fair in Germany. Cartano's firm, Presse de la Renaissance, made a minor specialty out of buying the French rights to political books written in other countries, and at the fair he heard that Colby's memoirs were available. He was immediately interested. The CIA, he knew, was a subject of much fascination in France, and he felt confident that any book written by a former head of the agency would do well. (His instinct was sound:

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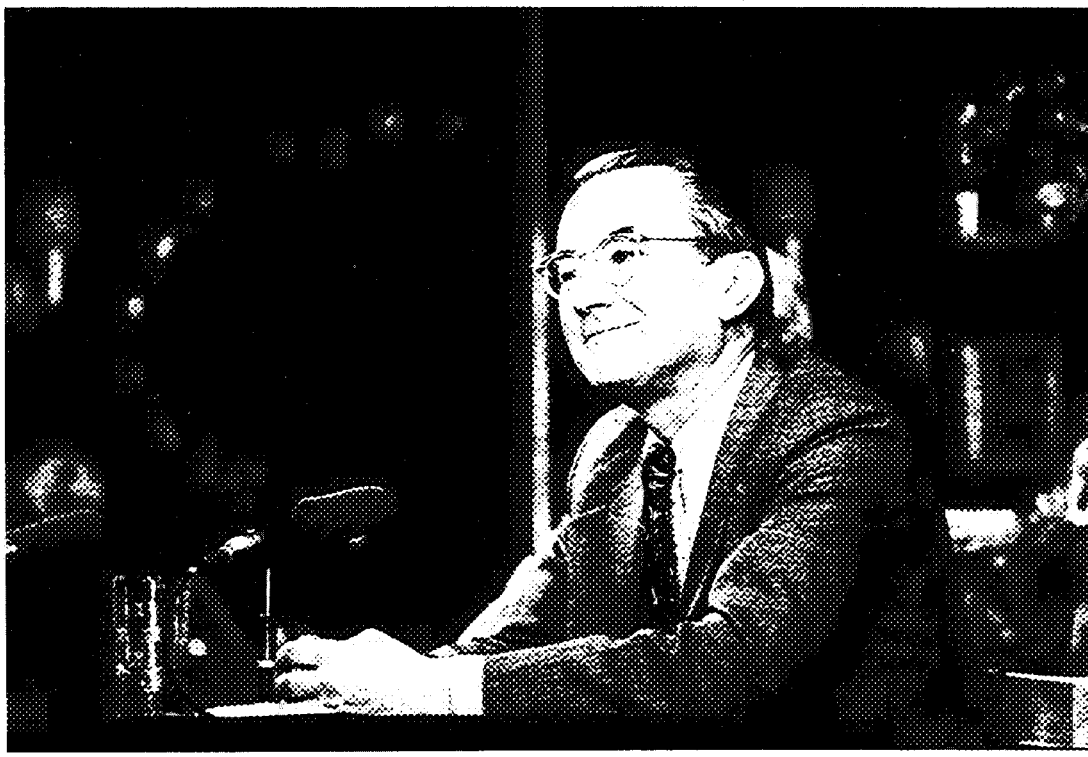

DIANA WALKER

William Colby, very much at ease during a publicity tour for his book.

Colby's book eventually sold 30,000 copies in France.) When he returned to Paris, he had the French rights to *Honorable Men* securely in hand.

As a general rule, French translations of American books appear on the market several months after U.S. publication. But Cartano thought he had a hot property and didn't want to wait that long. So instead of waiting for the book to be published in New York and then using a copy to produce his translation, Cartano asked Simon & Schuster for a copy of Colby's galley proofs, and it was the galleys that went to the French translator, accompanied by instructions to step on it.

There was just one small problem. Colby hadn't given his manuscript to the CIA's Publications Review Board; he had waited until the manuscript was set in type, and then turned over a set of the galleys. (Unless Simon & Schuster's editors, typesetters and proofreaders all have Q-clearance, this procedure in itself seems to have violated the "secrecy agreement," but no one has suggested that Colby be prosecuted for it.) One set of proofs went to Washington for review; one set went to Paris for translation. The CIA went through its galleys, made all the changes it felt were necessary to protect "classified information," and then gave Colby the go-ahead to publish. But neither Colby nor Simon & Schuster bothered to tell anyone at Presse de la Renaissance that any changes had been made. Meanwhile, in Paris, the unexpurgated galleys had been translated, edited, and sent off to the printers, and—irony of ironies—arrangements had been made for Colby to appear on several French TV talk shows plugging the book. It was all done quickly and efficiently, so much so that on the very day *Honorable Men* appeared in bookstores in the United States, its French version, *Trente Ans de CIA* ("Thirty Years of the CIA") appeared in Paris. This was awkward, because while *Honorable Men* had been "reviewed" and altered, *Trente Ans* had not. *Quel dommage!*

Here we confront a fascinating paradox. No one reading *Decent Interval* can be sure what the CIA would have considered "classified," because the book hasn't been through the review board's fingers. But that's not the case with Colby's book. To

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figure out what the CIA found offensive, all you need is a copy of *Honorable Men*, a copy of *Trente Ans*, a passing acquaintance with the French language, and (if you're like me) a trusty French-English dictionary close at hand. I've gone through this exercise (as I assume the KGB has, too, since the two versions of Colby's book have been available for more than two years). At the very least, the exercise should give us a clear picture of what Herb Hetu's board means by the term "classified." Hetu insists the board wouldn't dream of censoring anything else; so whatever is in the French edition, but missing from the American, must be classified. On that assumption, let's proceed to compare the books.

There are more than 30 places where the texts differ enough to raise a Russian eyebrow.* Most of the changes are simple cuts—a word here, a phrase there, sometimes a full sentence missing or rewritten. In the entire book, only one change is as large as a full paragraph. As for the meaty stuff—well, these are the kinds of changes that Hetu's board appears to have demanded of Colby:

- *Glomar Explorer*. It was in early 1975, during Colby's tenure as CIA director, that the tale of the *Glomar Explorer*—the Howard Hughes-owned ship used by the CIA to recover a sunken Russian submarine from the floor of the Pacific—first reached the press (and it was Colby himself who tried to keep the lid on, rushing from newspaper office to newspaper office, begging editors not to breathe a word of it, until Jack Anderson finally uncorked the story one morning on ABC television). In *Trente Ans*, we find Colby explaining how the CIA had hoped to make a second try at recovering the sub in the summer of 1975, because the first time around, in 1974, the mission had failed. "The Russian submarine," he writes, "was some 5,000 meters deep." The *Glomar* had succeeded in raising it 2,000 meters when disaster struck: the sub suddenly broke in two. The first third of the ship was salvaged, Colby writes, but unfortunately it was the other two-thirds that contained "the nuclear missiles, the steering and transmission devices, the codes—in short, everything the CIA was hoping to get out of the operation." Colby adds that because the *Glomar*'s cover had held up so well (a Russian naval vessel hovering nearby during the salvage operation hadn't suspected a thing, he says), the CIA felt confident that it would be able to snatch victory from the jaws of apparent defeat with a second recovery effort the following summer.

In *Honorable Men*, all this has been excised. In its place, Colby is allowed to say only: "But for reasons I cannot describe in detail, it was essential that the *Glomar*'s activities be extended to another summer's fair weather." There's more. In *Trente Ans*, Colby writes that after a break-in at Howard Hughes's Summa Corporation, an anonymous tipster offered to sell back to the CIA a top-secret memo about the *Glomar* that had been taken in the heist. The tipster's asking price: a million dollars. This figure must have serious national-security implications, because it has been scissored out of *Honorable Men*, to be replaced by "a healthy sum." From *Trente Ans* we also learn that since 1975 the Russians have kept a ship on patrol in the Pacific at the spot where their submarine—or two-thirds of it—still lies. This fact has been snipped out of *Honorable Men*, presumably to

*There may well have been other CIA-inspired changes. There are a number of places where the texts differ, but with such subtlety that it is impossible to tell whether the changes are the work of the CIA or of the translator, who could have been trying to clarify the passages in question for French readers. I couldn't reach the translator to ask him directly, so I didn't include these passages in my tally. —*J.N.*

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keep the Russians from knowing where their ships are.

• *Naming names.* About a third of the way through *Trente Ans de CIA*, Colby commits what many CIA people regard as the most heinous of crimes: he names a name. The name in question is Nick Natsios, a career CIA man who served as agency station chief in Saigon in the 1950s. Colby served under him for about a year. "My station chief," he writes in *Trente Ans*, "was Nick Natsios, a dynamic American of Greek origin." Colby goes on to describe how Natsios introduced him to Ngo Dinh Nhu (brother and right-hand-man of President Diem); how Natsios took "a well-deserved home leave" and left Colby to fill in for him at the CIA's weekly meetings with Nhu; and, finally, how Natsios was assigned elsewhere and Colby was promoted to Saigon station chief. None of this exactly smacks of extreme secrecy, but in *Honorable Men* Natsios becomes an unnamed "dynamic American of Greek origin," thereafter cleverly disguised by the pseudonym "my chief" (as in "My chief introduced me to Nhu" or "My chief was transferred to a new assignment"). In *Trente Ans*, Colby notes that the CIA station chief's house was very close to the presidential palace. This fact is fudged in *Honorable Men*. In the French version, he writes that the CIA used (gasp!) the Agency for International Development as a cover for its agents in Saigon. In the American text, all references to the CIA-AID connections have disappeared. (Elsewhere in his memoirs Colby is similarly casual about CIA cover. Recounting his adventures as a CIA man in Scandinavia, he writes: "As soon as I had completed the embassy paperwork that permitted me to pass as an embassy attache, I left my office to meet one of my contacts." This was changed in *Honorable Men* to the following: "So as soon as I had completed my embassy paperwork, I left it to make contacts."

• *Other matters of urgent secrecy.* In the French version of his book, Colby writes that in the 1960s, "we had obtained secret Warsaw Pact documents spelling out Moscow's strategy in the event of a battle with NATO." In the expurgated American version, there is no mention of "secret Warsaw Pact documents." Writing of his experience in Italy during the late 1940s, when the CIA worked covertly to keep that country from "going Com-

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munist," Colby recalls in *Trente Ans* that there were a number of Soviet "front" companies in Italy laundering funds from Moscow to the Italian Communist Party. In French, he names the companies; in English, he doesn't. He also recalls that the AFL-CIO pitched in, in the 1950s and later, to keep European trade unions from becoming Communist-dominated. How closely did the AFL-CIO and the CIA work? That depends—on whether you read French or English. In *Honorable Men*, Colby declares blandly that "over the years the CIA never provided financial help to the AFL-CIO" but the AFL-CIO "did indeed watch carefully what was happening with foreign labor movements, and had plenty of access to the White House if something displeased it." In *Trente Ans*, Colby suggests that the AFL-CIO had plenty of access to the CIA, too; the AFL-CIO, he writes, "had a say in the relations the CIA had with foreign unions, and in the subsidies the agency was prepared to grant them."

There are many places where changes in the text have nothing to do with the CIA's foreign exploits, but instead are concerned with internal agency politics. From both texts, for example, we learn that Colby was often at loggerheads with James Angleton, former CIA counter-intelligence chief; but in *Trente Ans* he writes that once when he asked Angleton's division what results it had obtained from a mail-intercept operation, it "obstinately refused to furnish me with the least bit of proof as to whether or not this operation had produced tangible results in the past." In *Honorable Men* this is watered down to: "I could get nothing beyond vague generalities from the counter-intelligence staff when I asked what the operation had actually accomplished."

In the French version, we learn that Desmond Fitzgerald, CIA deputy director, died of a heart attack while on the job. In *Honorable Men*, he just died—cause of death unexplained. In *Trente Ans*, Colby names Richard Helms and James Angleton as among those who felt "I had turned against my friends, benefactors, and predecessors" by agreeing to give the Department of Justice information that later led to Helms's indictment for perjury. In *Honorable Men*, we learn only that "a number of colleagues and senior officers" were mad at Colby: no names.

Other facts have been excised. Colby describes walking to his private elevator each morning on his way to his office at CIA headquarters; in the French version there is a security guard waiting for him in the elevator, in the American version the elevator is empty. Colby writes in *Trente Ans* that his job as head of the entire U.S. intelligence apparatus meant, among other things, spending long hours in meetings discussing such trivia as "which naval attaches needed a personal helicopter." In *Honorable Men*, the trivia is gone, and we find Colby worrying instead about "why air attache aircraft needed to be replaced." Presumably if the Russians ever penetrate the CIA director's elevator they'll be in for a hell of a surprise—otherwise why would the mention of the security guard have been cut?—and when they start sabotaging helicopters they'll have no way of knowing which ones really matter.

Reasonable If Mistaken

I could go on with this exercise, but the general drift of the changes ought to be depressingly clear by now. All the cuts in *Honorable Men*—these are *secrets*? Classified dope so important that it must be expunged from the public record lest it fall into enemy hands?

I just hope that the agent assigned by the KGB to read the two books didn't make too much of a fuss about the revelations he discovered when he reported back to the Kremlin. If he did, I can only assume he's been shipped off to the Russian equivalent of Butte, Montana. For the fact is that there's nothing secret in the uncensored version of Colby's memoirs—nothing even *remotely* secret. Even Colby himself, who tends to see eye-to-eye with the agency on most matters concerning secrecy, thinks the CIA got carried away in the "reviewing" of his book. "I do not agree with all the excisions the Agency required," he writes at the end of *Honorable Men*, "but I have conformed to them because I thought them reasonable even if mistaken." Forget the perplexing philosophical question of how something can be reasonable if it's wrong; Colby maintains that the cuts were "well within the proper limits of concern for the legitimate secrecy of our intelligence sources and for the avoidance of diplomatic conflict over intelligence operations." Hetu and the Publications Review Board ob-

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viously felt the same way, or they wouldn't have demanded the changes in the first place.

But now the cuts are out in the open for all to judge. Now they can be tested against the CIA's claim that it wants only to protect "the legitimate secrecy of our intelligence sources" and to avoid "diplomatic conflict over intelligence operations." Desmond Fitzgerald's heart attack—which category would you put *that* under? Identifying Helms and Angleton as among those angry with Colby—which of these criteria would that violate?

The truth is that it's impossible to see the justification for *any* of the changes Colby was forced to make. Some of the information that survives in *Trente Ans* is obviously too dated, or too much a matter of common knowledge, or both, to do anybody any good: the AFL-CIO stuff, for example, or the "secret Warsaw Pact documents." Some of it could be filed under the category of dirty-but-already-public linen, such as the stories about Angleton and Helms. Some of it is so widely known that it wouldn't surprise anyone with even the mildest interest in the CIA—such as the "revelation" that the CIA planted agents in AID. And even the excised details of the *Glomar* story aren't secret: they appeared more than three years ago on the front pages of *The New York Times, The Washington Post,* and countless papers carrying the *Times* or *Post* news services. If that information is still classified, it's going to be a terrible job finding and burning all those old newspapers.

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Yes, but what about Colby's most unforgivable sin—his fingering of Nick Natsios? Surely Hetu's board had good reason to want *that* deleted. No: there's much less to this unconscionable breach of security than meets the eye. In the first place, Natsios wasn't endangered, having retired from the spy business before Colby wrote his book. In the second place, his identity was widely enough known that Thomas Powers had no trouble finding out about him when Powers was researching his book on Richard Helms, *The Man Who Kept the Secrets*. We can assume that if Powers knew about Natsios, somebody at the KGB did too. Finally, Natsios was his own best publicist. He provided detailed information for a listing in *Who's Who*, of all places—and while not identifying himself explicitly as a CIA member in good standing, he might as well have; he gave so much information about his foreign service assignments that it would be hard not to deduce what he actually was up to. (The career pattern of CIA people working under cover at American embassies has long been common knowledge in the intelligence world. See, for example, "How to Spot a Spook" in *The Washington Monthly*, October 1974.) So it's hard to imagine that anyone who really wanted this information didn't already have it.

So much for "the legitimate secrecy of intelligence sources" and "the avoidance of diplomatic conflict." Since these criteria don't apply, we are left with a perplexing question: If the changes made in William Colby's book were, as we have seen, so piddling, so innocuous, so laughably silly, so fraught with un-secrets, why were they made at all? Why couldn't the Publications Review Board have kept its blue pencil sheathed? And what can we deduce from this about what would have happened to Frank Snepp if he had honored the "secrecy agreement" by submitting his manuscript to the board?

The answer to these questions can be found, I think, in one of the more immutable laws of bureaucracy. When people in a large bureaucracy are given a task to perform within an amorphous area of responsibility, they take that responsibility very much to heart. It is, after all, their *raison d'etre*. In no time, they start believing that what they are doing is crucial to the survival of the Republic, and so they do it not wisely but too well. It is the rare person who stops to consider whether his job really needs to be done or not. People assigned to censor the letters of soldiers in World War II started out looking for serious breaches of security, but it wasn't long before they were scissoring sentences like "I sure am tired of the mud here in Italy" because it was feared that if a letter like that fell into German hands, the enemy would learn that our morale was lower than advertised. For censors, the law of bureaucracy is straightforward: cut cut cut. The Publications Review Board has been created; zealous CIA civil servants have been appointed to serve on it; when the manuscripts come in, they're going to go through every page with a sharp pencil and a heavy heart. Herbert Hetu can claim that the board exists solely to protect real secrets, but the evidence, as garnered from *Honorable Men* vs. *Trente Ans*, strongly suggests otherwise.

It is worth remembering that William Colby is a most discreet and cautious man, and his book is so guarded, so vague, so full of blurry descriptions and composite characters that it must have been greeted by most intelligence veterans with a huge yawn. Yet, when he turned in this already self-censored document to the CIA review board, the board seemingly could not escape the elephantine bureaucratic compulsion to sit on *something*.

Get Snepp

What all this has to do with Frank Snepp should be obvious now. William Colby wrote a book that, when all is said and done, is blandly and unreservedly pro-CIA, and it still got censored by the drones. Frank Snepp wrote a book that is tough, hard, explicit, and aimed at forcing the CIA to change its ways. After reading *Honorable Men* against *Trente Ans*, one is forced to conclude that he was right to fear the Publications Review Board.

If he had agreed to prior "review" of his manuscript, he would have been in an impossible situation when the shredded remains came back from the board room: if he had then restored the cuts, he would have been seen as someone who played by the rules only when it suited him to do so. The CIA might then have been justified in taking him into court, and the Supreme Court might have been justified in slapping

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him around. As it was, he took the more honorable course of action—really the only one open to him—and the justices, in an exercise of brutal hypocrisy, slapped him around anyway.

Is it hyperbole to accuse the CIA and the Supreme Court of brutal hypocrisy? Not when you consider all the evidence inadvertently provided by William Colby. Here he is in *Honorable Men*, holding forth on his secrecy credo: "Many years ago I agreed that the CIA should review any materials I might wish to publish to ensure that I not reveal any classified information without proper authorization," he writes at the end of the book. "Of all who signed such an agreement to keep the secrets I was about to learn, I believe that I must abide by this 25-year-old commitment." This is stirring stuff, but we know now that Colby botched the job. He gave his unreviewed manuscript to Simon & Schuster, *then* to the CIA review board; he did nothing to retrieve his uncensored galley proofs from his French publisher, thereby giving friend and foe the opportunity to see exactly what the CIA considered "classified" and what it didn't. No question about it, Colby violated the "secrecy agreement," even if the violation was inadvertent or—to put it more accurately—just plain dumb.

So why hasn't the CIA called Colby into court? Why isn't the CIA trying to collect his royalties? Why is he free to go bicycling along the C&O Canal towpath in Washington while Snepp is facing a financial abyss?

You can't argue that it's because the "secrets" revealed by the French version of *Honorable Men* turn out, in retrospect, not to be secrets at all. That's not the issue. After all, the CIA never claimed to be prosecuting Frank Snepp for revealing secrets. It just claimed the right to go after him for violating the *agreement*, and the Supreme Court rubberstamped its claim. Last March, Hetu was asked about this apparent double standard, but at the time he nimbly avoided giving a direct answer, as did the Justice Department later. Now with the evidence at hand from our comparison of *Honorable Men* and *Trente Ans*, the question must be asked again. If the CIA is going to string up people like Frank Snepp, it must string up people like William Colby as well. If any crime has been committed, the CIA must acknowledge that both men committed it. To proceed against one without proceeding against the other reduces the "secrecy agreement" and all of Hetu's reassurances to so much gumbeating.

Obviously, the government has not only the right but the obligation to protect its secrets, but the evidence in our composite case of *Colby v. Snepp* suggests that the Publications Review Board is precisely the wrong way to go about the job. Consider how the Frank Snepp story might have ended under a different set of ground rules. Suppose, for example, that upon joining the CIA he had signed a different agreement—a document permitting him to write freely about his experiences in the agency, but with the explicit understanding that if he revealed sensitive classified information he could expect to be prosecuted for something suitably intimidating: something like treason, heavy with the probability of spending long years behind bars. That kind of agreement would make anyone think long and hard before casually revealing facts likely to compromise the government, but it would not have stopped Frank Snepp from going ahead with *Decent Interval*.

There is no getting away from the fact that Frank Snepp would have been guilty of a crime against his own conscience if he had *not* written the book, given his direct knowledge of an appalling and unpublicized situation. Now there's also no getting away from the fact that he was smart to steer clear of the Publications Review Board. And the logical extension of this fact is equally clear. As long as the government relies on a bureaucratic censorship board to protect its secrets, and as long as it treats a Frank Snepp differently from a William Colby, its secrets are not safe, justice is not served, and we're all at the mercy of scissors-wielding people we don't know (and probably wouldn't want to meet). The French, of course, have a phrase for the CIA's claim that there is a world of difference between "review" and "censor" and that there's no parallel between Colby and Snepp. *Plus ca change*, they would say, *plus c'est la meme chose*. In the American, CIA-approved translation, that would come out something like this: "Our requirements are reasonable if mistaken, and our standards of prosecution are consistent although applied differently from case to case." Sometimes you have to have a French-English dictionary to find out where the truth lies. ■

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A PLAGUE OF JUDGES

The Burger Court's Secret Plan for America.

by Robert F. Nagel

It's been a decade since Richard Nixon began filling seats on the Supreme Court, having announced his intention to provide an antidote to "some of our judges who have gone too far in assuming unto themselves a mandate. . . to put their social and economic ideas into their decisions." The intervening years have seen the completion of the Republican-appointed majority, whose members have, as expected, issued urgent calls for "judicial restraint"—prompting equally predictable rounds of condemnation from liberals accusing the Court of abandoning the bold legacy of Earl Warren.

What we haven't seen, strangely enough, is any letup in the lawsuits. Like sleepwalkers following some internal vision, reformers continue to emphasize judicial action in spite of the Burger Court's conservative image. And now, more than ever, they are succeeding, as the courts routinely lead the way on reform of (among other things) police practices, adoption laws, mental institutions, prisons, and schools. If Nixon were dead he'd be turning over in his grave.

It would be hard to blame him. In their own peculiar way, his appointees have not only failed to stop the march of judicial power, they have spurred it on. The Burger Court speaks in resolute tones about limiting our dependence on courts, much as Latin American juntas are fond of discussing an early return to free elections. But, so far, in the constitutional battles between liberal lawyers and conservative lawyers, the only clear winner has been legalism.

Robert F. Nagel is on the law school faculty of the University of Colorado at Boulder. He is currently a visiting professor at Cornell Law School.

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During the Warren Court's heyday, legal scholars liked to argue that judicial activism was based on a respect for the Court. But if this were so, a dramatic shift away from reliance on litigation would surely be in progress. The reputation of the Burger Court within the legal profession is miserable. Lawyers, professors, judges, even law students point sarcastically to the bewildering proliferation of concurring and dissenting opinions, the inexplicable reversals of tone and reasoning.

The Court's shifts of legal doctrine, while occult to the layman, represent a simple fact: basic uncertainty as to what the Constitution means. For example, in 1968 the Supreme Court ruled that discrimination against illegitimate children would be subject to "careful judicial scrutiny"—legal code words for a constitutional "test" that requires discriminatory state laws to be struck down unless they are justified by (more code words) a "compelling state interest." In 1971, the Court switched to another test, the so-called "rational basis" test, which approves a discriminatory statute unless it can be shown to be unrelated to *any* "legitimate state interest"—a virtually impossible feat. In 1972 the Burger Court moved back to "strict scrutiny." Finally, in 1977 the justices settled on a "middle level" of review, the nature of which was somewhat mysterious, except that it was described as "not toothless."

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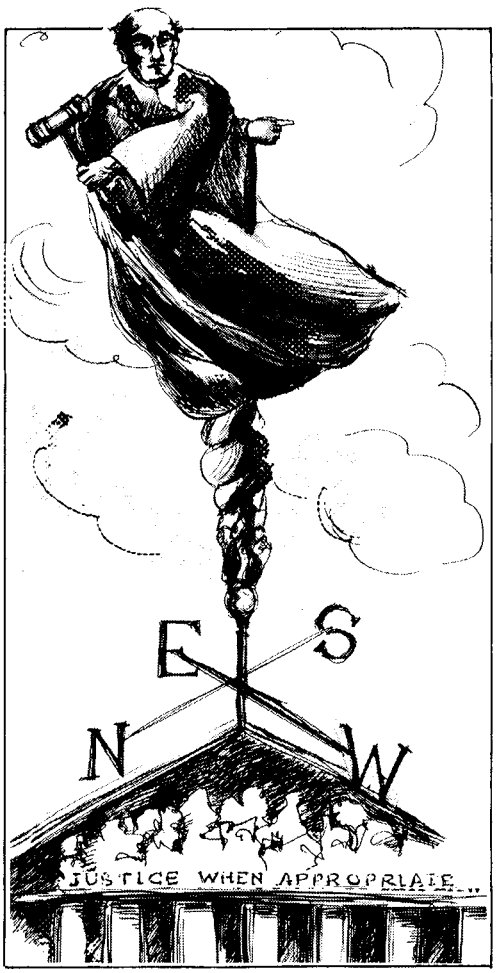
In the famous *Bakke* case, the Court's majority seemed to say that strict racial quotas were unconstitutional. But the justices couldn't come close to agreeing on the legal principle that explained this result. Two years later the Court *approved* a federal program establishing racial quotas for government contractors. This time the Court's opinion refused to even discuss legal principles, choosing to reveal only that it did "not rely on any of the formulas of analysis" in *Bakke*.

On the death penalty front, the Court initially struck down state laws that gave too much discretion in sentencing to judges and juries. When the states obediently rewrote their statutes to mandate the death penalty for certain crimes, the Court reversed its field, voiding the new laws because they didn't allow juries to consider "mitigating circumstances."

The justices' confusion encourages further litigation, if only in the de attempt to find out what they might . More important, lower-court juc , aware that even emphatic language in one Supreme Court ruling might be brushed aside in the next, are encouraged to ignore whatever suggestions of restraint might emerge from the Court. And the zigzagging views of the justices tempt litigants of all types to try their hand at constitutional argument. On any given Monday, if you catch the brethren in the right frame of mind, you might win.



CATHY ABRAMSON

As a result, even when the Burger Court has set itself against expansive judicial remedies, reformers calmly return to the courts and often prevail. Last year, for example, the justices used the strongest possible language to emphasize that the administration of jails was for jailers, not judges. Even major invasion of prisoners' privacy like "body cavity searches" were held to be a matter for the discretion of the wardens. Almost immediately after the Court issued this decision, a federal district judge struck down restrictions on visits to jail inmates by their children. The lower-court judge did nod in passing to the High Court ("The ambit of the administrator's discretion. . . may be wide. . . . ") but then walked insistently on into the unknown ("but it is not unbounded. . . the final judgment as to what is reasonable or not lies here").

Confusion on matters of constitutional principle is embarrassing to the Court. So the justices are tempted to avoid the appearance of confusion by avoiding principles—by substituting, in place of broad disagreements about moral standards, narrow agreements based on highly-detailed judgments about particular situations. For example, the justices could not agree on the principle that sex discrimination, like race discrimination, is almost never justifiable. But they could agree, in a particular case, that the current statistical data on patterns of drunk driving was insufficient to justify a state law that allowed women, but not men, to drink beer at age 18. As for the next discriminatory law, who knows?

For the Burger Court, facts seem to have taken the place of rules. When does the Constitution permit patronage firings of public employees? When the Court, in a case-by-case inquiry, is convinced that "party affiliation is an appropriate requirement for public office." [See "Zbig

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for Life," *The Washington Monthly*, June 1980.] When is the death penalty "cruel and unusual punishment"? When, as Chief Justice Burger himself recently wrote, "on a case-by-case basis [the Court decides] a defendant's conduct is egregious enough to warrant a death sentence."

In taking this approach, the Burger Court invokes the traditions of legal conservatism, with its veneration of the cautious, fact-sifting exercise of judicial statesmanship. The theory is that by avoiding sweeping Warrenesque pronouncements, judges avoid unnecessary interference in everyone's affairs. It doesn't work out that way.

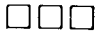
After all, when a court announces a clear principle—even when that principle, like the Warren Court's rule of "one man-one vote," allows the exercise of great judicial power—at least *some* claims are discouraged, because it is clear to everyone that they don't fall within the principle. But when each case seems to turn on what the justices think is "appropriate" in that particular factual situation, little that is said by the Court in one decision binds in the next—the facts in the next case are always different in some ways, the same in other ways. And because there are no rules to act as dividing lines, virtually *no* claims are "ruled" out. A vast range of subjects become the subjects of judicial regulation, and within each area everything must be "reviewed" by the courts—each discriminatory law, each patronage position, each application of a death penalty statute. Judicial intervention is left to the discretion of individual judges, restrained only by their own judgment about the facts in each case, rather than by principles. All groups and interests are encouraged by the unconfined possibilities of court action to commit their resources toward a judicial resolution of their problems.

A good example of this phenomenon is the Burger Court's treatment of "procedural due process" (which is what the Constitution requires before a person can be "deprived of life, liberty, or property" by the government). The meaning of "due process" was once relatively certain: the phrase referred to an adversary model of decision-making, and required traditional legal protections for the citizen like adequate notice of charges, the opportunity to confront witnesses, a decision based on the evidence presented, etc. The specifics might vary—counsel might not always be required, for example—but the basic contours of an adversary hearing stayed intact.

So "due process," to the delight of Warren-era civil libertarians and legal reformers, involved an ambitious package of court-imposed rights. But, for that very reason, judges thought carefully before deciding *when* it was that the government had to grant this "due process." In general, the doctrine was applied only to those official decisions where an individual was threatened with a harm great enough to justify the elaborate safeguards—when he was threatened with jail for a crime, for example, or revocation of his parole, or having his welfare payments cut off.

In recent years, however, the Burger Court has said that the meaning of "due process" varies depending upon "the private interest that will be affected... the risk of an erroneous deprivation... the probable value, if any, of additional procedural safeguards; and... the [nature of the state's] interest." If that seems like mush to you, you're not alone. "Due process" in effect, now means whatever the Court thinks is necessary—or, as the justices put it, "such procedural protection as the situation demands." In the context of a prison disciplinary hearing, it does not include the right to cross-examine witnesses. In a school, it might amount merely to an "informal give-and-take" between student and principal. If a public utility wants to shut off gas or electricity, "due process" is satisfied by a notice that tells customers where they can complain.

But since "due process" has now lost all fixed meaning, the courts are free to apply it to a far broader range of government actions. It might apply, for example, to decisions on whether or not to grant a prisoner time-off for good behavior, to expulsions from medical school on academic grounds, to the termination of a government arts grant or consulting contract. Litigants are standing by ready to press each of these claims, and there will be more, because *any* official decision-making process can be evaluated to determine what "the situation demands." And a court, of course, will do the evaluating.



A Supreme Court that is openly aggressive in its use of power provokes responses from the public or the other branches of

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Memo of the Month

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY EDMUND G. BROWN JR., Governor

DEPARTMENT OF DEVELOPMENTAL SERVICES
714/744 P STREET
SACRAMENTO, CA 95814
(916) 920-6701

January 21, 1980

TO ALL INTERESTED PARTIES:

Attached is the Request for Proposal to implement AB 3274 - Continuum. It is the recommended mechanism of the Advisory Committee to enable the Director of the Department of Developmental Services to "designate one or more designated agencies to implement community living continuums..." (Sec. 4831)

The Request for Proposal affords opportunities to select proposals and plans for Designated Continuum Agencies which would:

(1) Assist in fulfillment of other legislative mandates such as needs assessments and facility inventories (SB 2093), planning for services development (SB 354), etc.

(2) Attempt to eliminate systems duplications and promote improved coordination with proposed interagency agreements to be specified by the applicant prior to DCA contract letting.

(3) Be limited in services provision by requiring a plan by DCA's to shift long-term provision of services to another element of the service system - other than the DCA.

(4) Maximize the creativity of the proposal applicants in proposed methodologies for services design, organization, and provision.

The pilot projects will be funded for one year and will include provisions for full use of in-home supportive services, a training component and appropriate interagency coordination. The timelines and schedule for task completion are included on the last page of the RFP. The proposals will be sent with 7 copies to the appropriate area board in accordance with the RFP timetable. The area boards may review the proposals and will submit all proposals with appropriate letters of support to the Department of Developmental Services, Community Programs Branch, 714 P Street, Room 740, Sacramento, CA 95814 by April 30, 1980.

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Drumming Up Business

The Burger Court's tendency toward numbing detail is illustrated on the abortion issue, where the Court has engaged in a display of constitutional ad-libbing unlike anything seen in the Warren era. Three clear-cut avenues were available to the Court: it could have decided that abortion was a mother's constitutional right, that *not* being aborted was a fetus's right, or that the Constitution had nothing to say on this messy moral issue.

Instead, of course, the Court constructed a *variable* right for the mother, in which the ability of state laws to protect the fetus depended on the specific trimester of pregnancy. The vague nature of this "right" meant that it might be outweighed by the arguments of state officials in an indeterminate number of potential situations. So, inevitably, the Court has had to assess whether a state could require that abortions be performed in specially accredited hospitals, whether a state could require the approval of a special committee prior to abortion, whether saline abortions could be banned, whether a minor girl could be required to notify or consult with a parent before going to court to prove that she had given knowing consent to an abortion, etc. "Pro-life" or "pro-choice," it's hard not to be ground down into indifference when confronting the sheer moral pedantry involved in toting up the Court's constitutional ledger sheets.

In another area of strong feelings, state aid to parochial schools, the judicial detail is equally amazing. Textbooks can be supplied to pupils, but not to schools. They can, however, be stored on school premises. But projectors and maps cannot be supplied even to parents, and guidance service can be provided only off school grounds. Parochial school parents and principals must eagerly await the elaboration of the "map/textbook" distinction in future lawsuits. —*R.N.*

government—just as the Warren Court elicited rumblings about impeachment and proposals in Congress to limit the federal courts' jurisdiction. The Burger Court, by donning the robes of judicial restraint, has largely disarmed this potential opposition.

But although the Congress might be beguiled, lower courts and litigants will not be. They realize that, when the mood strikes it, the Court is now free to proceed ambitiously. They also correctly perceive that the justices—even when they can agree on nothing else—exhibit a growing consensus on the importance of judicial power. The signs are unmistakable. In the prison rights cases, for example, the Burger Court has given short shrift to inmates' pleas for greater freedom of speech—but it has gone out of its way to manufacture a new right: a right of "access" to the courts. What is important, it seems, is not so much the prisoners' rights as the supervisory rights of judges. More dramatic was the Burger Court's recent ruling that judges, unlike almost all state and federal executive officials, are immune from civil rights liability even when they *intentionally* deprive citizens of their constitutional liberties. In effect, the Court decided that the uninhibited exercise of judicial power was so important that judges must, in one respect at least, be above the law of the land.

So we can expect to see more of the Burger Court's unique brand of judicial activism in the coming years. Although the Constitution might mean less, it will be applied to more situations. The decisions of the elected branches might often be upheld, but only if they happen to conform to the private assessments of the particular justices sitting on the Court. More is tolerated, but only after everything is "reviewed." With the style and rhetoric of legal conservatism, we are being pushed toward a more pervasive, more detailed reliance on the courts. The contours of the Constitution blur and begin to disappear. All that is left in its place is the belief of judges in their own power. ■

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Who's Who in the Administration

One of the most notable features of the current administration has been the number of White House staff members who are bright, young, well-credentialed—but who lack either the substantive knowledge, or experience dealing with bureaucratic shell games, necessary to do their jobs well. The leading example, it is almost universally acknowledged, is **Kitty Schirmer**, who as asssociate director of the Domestic Policy Staff played a pivotal role in the administration's energy policy. Other "Young Turkeys" include **Richard Neustadt** and **Ellen Goldstein**, also of the Domestic Policy Staff, and **Margaret McKenna**, who until this spring was deputy counsel to the President.... The man who has the ear of Tansportation Secretary **Neil Goldschmidt** is his speechwriter, **Alan Webber**.... Don't think we'd let an issue go by without an item on **Lloyd Cutler.** We are informed that the president's counsel has been interested in heading the Justice Department, a job performed at the moment by **Benjamin Civiletti.** Now, if you remember the details of Billygate, you recall that Cutler was also the administration official who told Civiletti that the Attorney General would have to reveal his conversation about Billy with the President, a contact Civiletti had previously denied. And it was Cutler who insisted that the official White House statement make it embarrassingly clear that Civiletti had also denied having the conversation to internal White House investigators. All of which tended to make Civiletti a prime candidate for ex-Attorney General. Hmmmmmmm....

In

AGRICULTURE

Undersecretary for Rural Development—**Alex P. Mercure** has been assistant secretary for rural development.

STATE

Ambassador to Czechoslovakia—**Jack F. Matlock, Jr.** has been deputy director of the Foreign Service Institute.

Ambassador to Malawi—**John A. Burroughs, Jr.** has been deputy assistant secretary for equal employment opportunity.

AGENCIES AND COMMISSIONS

Federal National Mortgage Association
President—**David O. Maxwell** has been chairman and chief operating officer of Ticor Mortgage Insurance Co.

Synthetic Fuels Corporation
Chairman—**John Sawhill** has been Deputy Secretary of Energy.

Out

Commerce
Director, Bureau of the Census—**Vincent P. Barrabba** will join Eastman Kodak Co. as director of market intelligence.

Energy
Special Assistant to the Secretary—**Deanne C. Siemer** moved up her planned resignation when the department's Inspector General charged that she violated nepotism laws by urging Energy officials to hire her stepson as a summer intern. Siemer had functioned as secretary Charles Duncan's chief of staff.

Deputy Undersecretary—**Robert I. Hanfling** will be a consultant.

Special Adviser to the Secretary for the Strategic Petroleum Reserve—**Abram Chayes** will return to Harvard University where he is Professor of International Law.

State
Ambassador at Large and Special Representative to the Law of the Sea Conference—**Elliot L. Richardson** has joined the Washington office of Milbank, Tweed, Hadley & McCloy, a New York law firm.

Ambassador to Poland—**William E. Schaufule, Jr.** will be president of the Foreign Policy Association.

Treasury
Commissioner of Internal Revenue—**Jerome Kurtz** has resigned.

General Counsel—**Robert H. Mundheim** will return to the University of Pennsylvania as professor of law and finance.

Agencies and Commissions

Interstate Commerce Commission
Member—**George Stafford** has retired.

National Aeronautics and Space Administration
Administrator—**Robert A. Frosch** will be president of the American Association of Engineering Societies.

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EARN BIG MONEY IN YOUR SPARE TIME WITH »NO MONEY DOWN »NO REAL ESTATE »NO TALENT!

All you need is a post office box, a typewriter, and the *Federal Register*.

by James Lyons

In *The Wall Street Journal* a few months back, amid the tasteful notices for the Morgan Bank and Dreyfus Liquid Assets, there appeared a two-column advertisement from an organization called the American Entrepreneurs Association. "A Lucrative Sideline for Non-Writers," read the headline. "People from all walks of life, most with no writing ability, are making incredible profits dispensing specialized information in newsletters." The ad went on to tell success stories like "the young man fresh out of college" who started with $480 of borrowed money and "today. . . is considered the leading expert in [his] field, commanding $800 a day in consulting fees" and grossing $60,000 per year "for a 4-page newsletter he writes during one afternoon a week."

Sound too good to be true? Don't be so sure. Confirming evidence came a few months later when another ad began appearing in the business section of *The Washington Post*. This ad was considerably more discreet, as befit the well-established organization that placed it. It read simply: "Harcourt Brace Jovanovich, Inc., a Fortune 500 company, is interested in purchasing profitable newsletters or financing new ventures in the newsletter field."

What both the American Entrepreneurs Association and Harcourt-Brace realize is that newsletters have been one of the growth industries of the '70s. HBJ knows something else too—that this growth has been concentrated largely in the nation's capital. In 1962, the Washington chapter of the Newsletter Association of America had only 13 members, publishing no more than 20 letters. Today it has 96 members, putting out more than 200 letters. Most of these are short, specialized publications geared to lobbyists and executives in particular industries. They have crisp, no-nonsense names—*Defense Week*, *Inside D.O.E.*, *Sludge*. Like locusts, the newsletters have descended upon every twig in the executive branch, with their greatest increase occurring in the last five years.

What attracts them is an opportunity to make money by means of a classic formula: the sale at high prices of something that costs very little to produce. A bimonthly letter consisting of four single-spaced typed pages can be put out by one or two people. "If you plan to be your own editor, it can cost only $5,000 to $6,000 to start," according to Frederick Goss, director of the Newsletter Association. Others say you can do it for as little as $1,500-2,000. Yet subscription rates for a typical newsletter range from $50-$500, with most in the $200 range. You can figure it out for yourself: "The appeal of the newsletter business," says one successful publisher, "is that you can usually charge enough to survive and profit even if you realize your most pessimistic circulation projections."

All of which is why you might want to start a newsletter. But (you may be thinking to yourself) why on earth would anybody want to *subscribe* to one? The answer is simple: for the same reason that people buy stock market analyses and betting tip sheets—to get the Inside Skinny. Newsletter publishers will tell you that they offer

James Lyons is a New York writer.

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not only information on the latest developments within the bureaucracy, but interpretation and prediction as well. Or, as a nationally-advertised handicapping service called Big Apple Sports puts it: "We get all the moves and know what to do with them."

There are, it should quickly be added, at least two important differences between a typical Washington newsletter and a typical handicapping service. First, while the handicapper plays upon a simple emotion —greed—the Washington newsletter can play upon another, more subtle and powerful sentiment, namely fear. Second, handicapping is a highly competitive industry, with the tipster under tremendous pressure to produce concrete results. As a consequence, the firms in the industry are often driven to make a variety of generous offers to their clients; Big Apple, for example, promises that "we've got to deliver three straight Big Apple Beauties (three straight winners) before you pay us one red cent." By way of contrast, it is safe to say that you would never catch *Inside EPA Weekly Report* offering to predict three straight effluent limitation standards before collecting its subscription fee. Things aren't that desperate in the Washington newsletter business, not by a longshot.

It's a Zip

Sound like you might want to jump in? If so, you've picked up the right article. Having spent the past few weeks consulting top-level players in this fast-paced field, I am prepared to reveal the 12 simple steps to newsletter success. Here they are:

1. Move to Washington: If you're going to sell the Inside Skinny, first you've got to at least appear to be on the Inside. Big Apple Sports claims that it is able to beat the NFL point spread because it is "located in Mid-Town Manhattan, the True Mecca of Football Action in the country." Likewise, you will want to offer your clients vital operating information from the True Mecca of another sort of action. For most publishers of government-oriented letters, this means an office in Washington, D.C. proper—even if all they can afford is a dingy room in the National Press Building. They know that the most apolitical life insurance salesman, if he has an office in D.C., is assumed by his relatives in Iowa to know "what's going on" in the government. It might be possible to cover the FCC from Des Moines (see step 4 below), but who is going to pay you to find out?

The importance of a mailing address in "the District"—as we insiders call it—was inadvertently illustrated this year when the U.S. Postal Service, seeking to eliminate confusion, announced plans to strip businesses in suburban Bethesda, Maryland of their overlapping Washington, D.C. zip codes. The well-meaning postal officials did not count on the screams of protest from the newsletters and trade associations (some 70 of them) with offices in the suburb. "We contracted to send out our newsletters from the Nation's Capital, not Bethesda," protested Thomas L. Phillips, publisher of *Forecasts & Strategies* and *VideoNews*, among eight other letters. "This is like changing the rules in the middle of the game." James P. Goeden, head of the Bethesda Chamber of Commerce, complained that the zip shift would "literally cause [the county] to lose millions of dollars in economic development," adding, "Who in Moline, Illinois, or Burbank, California has ever heard of Bethesda, Maryland?"

2. Give them a scare: The basic technique of newsletter salesmanship was worked out decades ago by the Henry Ford of the Washington newsletter industry, W.M. Kiplinger. Kiplinger started his first Washington newsletter in 1923. Today his empire, ruled by his son, Austin, consists of five letters raking in about $12.5 million annually. Kiplinger's newsletters are relatively low priced, high-circulation publications focusing on personal finance. As such they are usually distinguished from the high-priced, low-circulation "professional" missives that make up the boom segment of the industry. But Kiplinger's patented subscriber-motivation technique can be applied across the board.

To see how it is done, let's look at the *Kiplinger Washington Letter* of April 18, 1980. If you were a widow clipping coupons somewhere out in the Real America, this letter would have all the ingredients for a sleepless night: "String of weak quarters is what's expected. Business conditions weakening from now right through summer. . . continuing to slip this fall and on to the first three months of 1981. If the outlook changes, it's more than likely to be on the down side." Yet, even as

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his widow reaches for her Valium, Kiplinger adds, "But there will be plenty of time to signal you... ahead of any danger." Neat, no? In one deft maneuver the reader is given some "inside" advice and pointedly reminded of his helpless need for the next installment of Kiplinger's letter to protect him from the sinister forces orchestrated in Washington.

A similar sort of chemistry seems to be at work in many of the more specialized letters. *Price Controls Alert* ("Your Early Warning System on Price, Wage, Rent and Monetary Controls") is hardly subtle in its approach, for example. Even after the president's authority to freeze prices had expired, the newsletter struggled manfully to build up the threat: "The next 6 months are critical," it reported in mid-May. "Carter will be severely tempted to impose *mandatory controls* before the November election. . . ."

Most newsletters are not this blatant, perhaps because there is no need to be. They have staked out a corner of the government with a natural constituency whose fear of regulation (or lust for subsidy) is built in. The *Washington Drug Letter* does not have to remind its subscribers (mostly executives in the drug industry) of the myriad ways in which a new FDA initiative might hurt or help their businesses. But it may be doubted whether *WDL* could charge $240 per year if those initiatives dried up —or if its readers weren't just a little bit scared of what they might amount to.

3. Be narrow-minded: By now, of course, the juiciest agencies have been taken—in fact, it looks pretty crowded out there. At least a dozen newsletters cover the FDA, for example, while 25 have attached themselves to the FCC. The number of letters supplying skinny on the Department of Energy has reached crisis proportions, with new editors having difficulty finding names that aren't already in use, according to Howard Hudson, publisher of the *Newsletter on Newsletters*.

The solution is to think smaller. Remember, at $200-plus per subscription you don't need many readers to break even. And the tinier your topic, the more vital your letter will be to those executives who have an interest in it. So don't bite off the whole FCC—just an expanding new field like "low-power subscription channels" or "VHF-drop-ins." Don't cover the EPA—pick a particular form of pollution, be it liquid (*Clean Water Report*), solid (*Solid Waste Report*), sonic (*Noise Control Report*) or spectral (*Radiation Report*). But you've got to move fast. In the synfuels industry, so recently sprung full-blown from Congress's brow, there are already two competing letters, McGraw-Hill's *Synfuels* and rival *Synfuels Weekly*.

Timing is important. In 1973, for example, an ex-*Washington Post* editor named Llewellyn King left his job on the staff of *Nucleonics Week* after quarreling with his editor. He decided to start a newsletter of his own, *Weekly Energy Report*. Within months, the Arabs had imposed their embargo and today King is a wealthy man. His $450/year newsletter, now called *Energy Daily*, does over $500,000 annual business.

Cashing in on the *Register*

4. Be a subscriber yourself: Now comes the hard part, actually writing your newsletter. The best letters, of course, are put together by people with an intimate knowledge of an agency or industry, who have "sources" and come up with "scoops" just like newspaper reporters. Luckily for you, a perfectly profitable newsletter can be put together without all this costly effort. In fact, if you are just starting and have a low budget, there are a few simple steps you can take to guarantee that your four weekly pages are filled with "inside" data.

Your first act as publisher should be to mail a check for $75 to the Superintendent of Documents at the Government Printing Office. This will buy you a year's subscription to the *Federal Register*, the government's daily compendium of rules, meetings, proposed actions and inactions—and the mealticket of the Washington newsletter industry.

To the average citizen, the *Register*'s very existence seems intimidating. It is hard for him to even pick up this thick document, containing an average of 300 dense pages each working day, without thinking that *some*where in its numbing vastness must lurk a sentence that threatens his very livelihood, if only on the same principle which holds that an infinite number of monkeys with typewriters will eventually produce the complete works of Shakespeare. But who has time to sift

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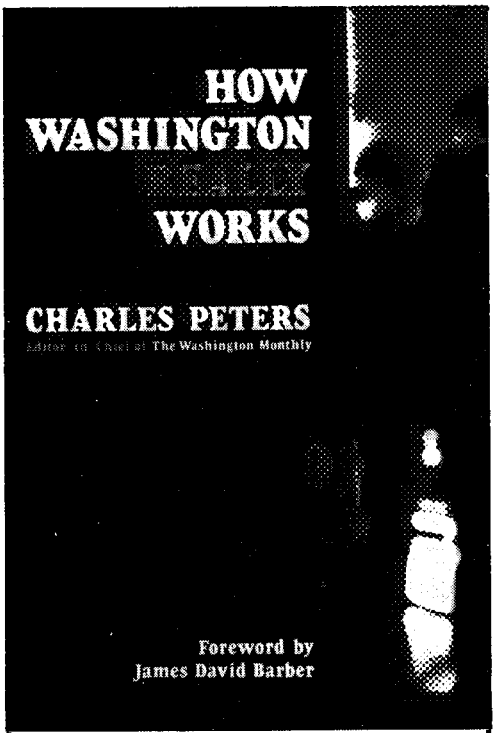
through all those pages looking for the smoking subsection?

As a newsletter editor, *you* will have time, because you will know that once you (or your secretary) get the hang of it, perusing the *Register* for items on a particular subject takes, according to one expert—"less than an hour." It won't be a fun hour, granted; but the payoff comes when you do find an entry that is remotely connected to your chosen sub-specialty—because then you can simply paraphrase it and, presto, you have instant newsletter.

A typical sample is this item from *Ag Regs* ("The Agribusiness Digest of Legislation and Rulemaking"). On July 14, *Ag Regs* reported that "EPA has suspended effluent limitations representing best conventional pollutant control technology for the corn wet milling subcategory." *Ag Regs* didn't hide the source of its information (*FR,* page 45582), and many newsletter editors defend this practice of "repackaging" the *Register* as a useful service to readers, who presumably gladly pay $160 per year to have someone else wade through the document and point out the notices that are relevant to them. Of course, the five wet corn millers in this country to whom this particular notice *was* directly relevant had known of the EPA action for two months, ever since the agency announced it in April. This sort of lag is typical—regulatory decisions are often made known to the affected parties well in advance of their official publication in the *Register.* But this doesn't prevent the *Register* from being the single biggest source of fodder for newsletters, where the repackaged items can seem terrifically timely to those to whom they are irrelevant.

Three other quick, inexpensive sources can provide all the information you will need to make your newsletter an authoritative source in its field. A second $75 check to the Government Printing Office will buy a year of the *Congressional Record,* which will tell you what bills have been introduced in your bailiwick, what congressmen are saying about them, and who is holding hearings. You will also need some way to find out when your agency's regulations are about to get tangled up in court—a subscription to *Daily Washington Law Reporter* (for cases filed) and a glance at the key headings in *Federal Case News* (for recent court decisions) should do the trick.



"As clean and surgical an analysis of the governing of the United States as has been done since the war. And it is unlikely to be surpassed soon... A splendid and thoroughly readable performance by one of Washington's best thinkers."
—Theodore H. White

"The most enduring political theorists—Hobbes, Locke, Rousseau—each argued from a simplified premise of human nature, and Peters' premise deserves equally serious consideration, particularly because in many situations he describes it is demonstrably correct. . . ."
—Eric Redman in *The Washington Post*

...There hasn't been a more satisfying and surprising book about the folkways of pernmanent government since George Reedy's *The Twilight of The Presidency.*"
—John Leonard in *The New York Times*

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With this handful of subscriptions—no more than a few hundred dollars' investment—you should be able to make even the most comatose official province appear to be in a state of permanent revolution. And, with any luck, one of these sources will bring you the good news that will ensure the continuation of your publishing career. Perhaps it will be a senator, introducing a bill to regulate a portion of your chosen industry—or if your industry is already regulated, to deregulate it. Perhaps activists will have taken over the agency you cover and published an ambitious rulemaking proposal in the *Register*. Or maybe things are further advanced, and the industry has filed a lawsuit to get the regulations overturned in court. Any one of these events will cause your heart to soar, because you will know that they translate into years of renewals as you patiently guide your subscribers through the suspense of hearings, mark-ups, and conference committees...or else proposed rulemakings, notice-and-comment periods, and administrative hearings...or else briefs, oral arguments, and motions for rehearing in each of the three layers of the federal judiciary.

You probably won't be as fortunate as *FTC Watch*, whose agency was simultaneously attempting to ban all ads from children's TV shows, proposing to regulate the funeral industry, engaging in decade-long antitrust litigation to restructure the cereal and petroleum industries, and investigating automobile manufacturers. But even if you cover a bureaucratic backwater like the Department of Agriculture, you should have no trouble coming up with little ongoing dramas like *Ag Regs*'s lead story for July 14 (contained in a special red-tinted section called "Hot Box"): "Judge Richard B. Kellam of the federal district court for Eastern Virginia has ruled that the U.S. Department of Agriculture can no longer approve labels which use the term 'Turkey Ham—Cured Turkey Thigh Meat' for an all-poultry product. The decision is being hailed as a victory by the American Meat Institute .... By late last week USDA (and the National Turkey Federation, who intervened in support of the department) were trying to determine what response they would make. Essentially there are two choices: to appeal the decision, or to try to get the issue kicked back to USDA for further rulemaking...."

5. Read the Papers: If you are flush with funds, you can make publishing your letter a relaxing occupation. An indexing service, like *The Washington Monitor*'s guide to the *Congressional Record*, for example, will cut your scan-time to minutes and allow an early lunch. On the other hand, if you can't afford even the small investment necessary to buy the materials noted in step 4, don't despair. At some inconvenience, you can probably operate out of one of the local libraries.

More convenient, you will be pleased to discover, are the surprising number of tidbits in your subject area that crop up on the back pages of the *New York Times, Washington Post,* and *Wall Street Journal.* Pay particular attention to the business section, but don't forget the details buried in the "jump" from front-page articles. Anything off page one is fair game. Remember that everybody's favorite newsletter editor, I.F. Stone, made his living piecing together unread back-page items—and that by the time Stone retired his newsletter, *I.F. Stone's Weekly*, in 1971, he was grossing over $250,000 annually.

6. Accept Handouts: Stone was a great clipper, but he also had another secret: official government publications. These range from Defense Department tomes that only a man of Stone's tenacity could make sense of, to committee hearings and GAO reports, to press releases from your agency's "public affairs" office that you can simply cut and print. The best thing about these documents is that they are absolutely free. All you have to do is ask for them.

Of course, these days no self-respecting tough-minded journalist wants to get caught rewriting government press releases. And many newsletters disdain this practice. For its $165/year subscription price, for example, *Energy Digest* gives its readers an *exact copy* of every Department of Energy press release issued during the previous two weeks. It seems that the DOE opened up this high-priced "repackaging" market when, in an austerity move, it decided to issue press releases only to "legitimate members of the news media."

7. Watch the Revolving Door: When only the names change, write about the names. Here the newspapers can again come in handy (look for personnel

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announcements bunched in boxes in the *Times* second section) as well as the "People" departments of magazines like the *National Journal.* And don't panic if at first glance the revolving bureaucrats seem as alike as a roomful of grey socks. When you examine them closer, you'll notice the subtle differences.

Take the case of Ann Holt, who was recently appointed Associate Director for Compliance in the FDA's Bureau of Medical Devices. The public record on Holt establishes the following: She has worked for the FDA since 1965; in her last post she was responsible for pre-marketing evaluations of animal drugs; and she is the first woman to hold a Senior Executive Service position in the BMD. Not much to go on, eh?

Wrong. Look at how *The GMP* (stands for "Good Manufacturing Practices") *Letter,* a newsletter geared to the medical-device industry, rose to the challenge in its July issue, where Holt's appointment was the lead story. *GMP* first assessed the impact of the change, observing, "Holt will be an enigma initially [because she is] largely unknown to industry." The editors then removed some of the mystery by divulging the inside skinny on Holt—she is, *GMP* revealed, "regarded among agency colleagues as a fair-minded team player and a good manager." Finally *GMP* boldly raised the unasked question: "Whether the sexism issue does cause Holt undue stress remains to be seen."

Holt, who had not succumbed to the "sexism issue" in her previous 15 years in the agency, was also a top story in another FDA newsletter, *Medical Devices, Diagnostics and Instrumentation. MDDI* featured a picture of the bespectacled administratrix, but could not match *GMP*'s virtuoso coverage, disclosing only that Holt "is known throughout the FDA as an informal administrator."

8. Soak Your Subscribers: Don't be ashamed to charge hundreds of dollars for a publication that is put out by you and a college student you've hired part-time to comb the *Register* and the *Record.* A newsletter isn't a magazine. For one thing, your subscribers aren't paying with their own money, but with their employers' money—and to International Widget, your $250 subscription charge is a small price to pay for the security of knowing that every twitch of the regulatory machine has been brought to its attention. Of course, Widget isn't paying with its own money either, since it deducts the cost of your newsletter—and the 20 others to which it subscribes—as a business expense. Moreover, if you've chosen your niche carefully, you'll find no competitors who might underbid you. The result, as one successful marketer drily put it: "There's not a great deal of price resistance in this industry." The biggest mistake you can make is setting your initial price too low—it could take you years to jack it up to the deductible heights where it belongs.

9. Give a conference: Another opportunity for your subscribers to take a deduction on their tax forms while pushing you into a higher bracket. Conference topics can vary in sophistication—from an introductory course on "Understanding the FDA Regulatory Process" for executives from the home office, to a hot seminar on "bioavailability" standards for the experts. Be sure to lure some officials from the agency into attending, and choose a posh hotel—the Hyatt Regency at $70-110 per day per room is a favorite—so the conferees can enjoy themselves while spending the taxpayer's money. A $100 charge per day for the conference alone (without hotel room) is a bare minimum.

10. Massage your lists: The most valuable asset of your newsletter, you will quickly learn, is its mailing list, which you have painstakingly cobbled together from trade association directories, conference registers, other newsletters, and Freedom of Information Act requests directed at government list-keepers. Profit-maximization means being constantly on the lookout for something you can peddle to the people on the list—a book, an inventory of government documents, a "spinoff" newsletter.

This imperative occasionally produces an exception to the trend toward ever more specialized Washington letters. Recently, for example, subscribers to the magazine *U.S. News & World Report* found a cream-colored envelope in their mailboxes. Inside, they were told to "get ready for big changes coming at you from Washington in the months ahead that could undermine a lot of business and personal plans you might be making right now." *U.S. News* readers could alert themselves to these big changes, needless to say, by paying an additional $32/year for the

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limited-circulation *U.S. News Washington Letter.*

The strategy at work here is roughly the same as confronts the patron of the carnival peep show who, having paid his four bits and gone inside, is told that for only two bits more he can enter an inner sanctum and see something really "educational." But there is a flaw in this strategy as applied to newsletters—after all, aren't *U.S. News*'s regular readers already kept abreast of the "big changes coming.... from Washington"?

From an editor's point of view, this is a moral dilemma, of sorts: Do you give the whole story to your regular subscribers, or withhold the real inside poop as an extra to offer the inner circle of high-rollers? A tough question, and one faced not only by *U.S. News* but by political experts Rowland Evans and Robert Novak. You may not already know that these nationally syndicated columnists also publish a newsletter, the *Evans-Novak Political Report,* that for $100/year tells its exclusive list of subscribers "What's Happening ... Who's Ahead... In Politics Today." If, as a regular reader of E&N's op-ed columns, you suspect that you are in the group that is being denied the true secrets, relax. We can safely report that Evans and Novak have not resolved their ethical dilemma at your expense.

11. Lean forward: Instead, Evans and Novak reveal themselves in their Washington letter as the current masters of a basic newsletter technique (again pioneered by Kiplinger) known as "the forward lean." One successful editor explains: "What we do is look at a story in *The Washington Post* and try to put a forward lean on it. It's a formula, and it appeals heavily to the venal types."

Here, for example, is what Evans and Novak told their newsletter clients last January 15:

"If the Soviets do move against the bordering 'sanctuaries' (within the next six weeks) or into Eastern Iran, it would force the U.S. (and the West) either to respond or back down—a terrible decision for Jimmy Carter and other Western leaders."

Makes you feel like you're eavesdropping at a National Security Council meeting, doesn't it?—until, that is, you realize that Evans and Novak have only read today's headline, taken it a hypothetical step further, and stated the obvious. But by then E&N have probably swept you off-balance with another non-prediction prediction, like this one: "We hear more and more talk that JC's fundamental problem in handling inflation is his total lack of *any* conviction or self-assurance. If that is correct then he might—just might—opt for a freeze of some kind." It's worth pausing for a moment to admire the double-insulated logical structure of a hedged bet ("might—just might") nestled safely within an escape clause ("*If* that is correct...").

12. Go Ahead, Predict: Even if you only cover the Bureau of Medical Devices, some attempt at bona fide prognostication may be necessary. Here the best advice may have been given by the experienced newsletter staff writer who told me: "Since most newsletters are prediction, you can make it up. Sometimes I would wing a predictive thing on the basis of an interview. The key principle is that no one remembers your prediction if it's wrong."

This is a secret that leading psychics and newsletter writers have known for decades. On May 16, for example, none other than Austin Kiplinger told his readers that "Ford is still solid. While the domestic picture is bleak, overseas sales are strong and will remain so, company officials tell us." On June 20, Kiplinger had a somewhat different forecast: "Ford will lose hundreds of millions more, the future uncertain."

At Big Apple Sports, a mistake like that in predicting a big game could mean the difference between riches and bankruptcy. But Kiplinger didn't even blush, nor was there a detectable drop in his circulation. That may be because, despite the high prices and insider language, few bets actually depend on what is written in the typical Washington newsletter. Instead of being played, the game is all too likely to be remanded for further consideration of the evidence. And rather than providing a crucial tip on which a fortune is risked and won, Washington's tip sheets are generally designed more to provide the appearance of insider information, the security of knowing that all risks are accounted for, the looseleaf binder on the credenza that a middle manager can point to and say, "You know, this new rule might have important implications for us." At the moment his boss says, "Good thinking, keep on it," your newsletter has done its job. ■

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Tidbits & Outrages

The Bureau of Judeo-Islamic Harmony Is Also Open Saturdays

Working people have long been annoyed that basic service departments of the District of Columbia—like license-renewal and vehicle tag windows—are open only during business hours Monday through Friday.

There is, however, one District service office open on Saturdays. It's the office that handles compensation insurance for the unemployed.

A Spokesman for the Journalists Issued a Non-Denial Denial, Then Refused Further Comment

The Washington chapter of Sigma Delta Chi, the professional journalists' society, is trying to win approval for live television coverage of court proceedings. It sent editors and news directors a memo asking them not to report this fact, because "News stories regarding this effort would be detrimental to the cause." Sigma Delta Chi also asked *The Washington Post* not to reveal that it had received the memo, LaBarbara Bowman of the *Post* reported.

In its memo, Sigma Delta Chi explained that it wants cameras in the courts because "the public has a right to know."

Brownies on the Yacht Are Extra

The 1980 gift catalog of Creme de la Creme, a Chicago store, offers a leather-trimmed brass tennis-ball caddy for $63 ("balls not included"), a week on a yacht for $16,000 ("all-inclusive"), silk bikini panties for $62 ("bright pastel colors, so let us choose for you"), and one dozen brownies for $45.

People Making Transportation to Serve Themselves

At one point last summer, air-conditioners were out of order in two-thirds of Washington's subway stations, and temperatures passed 100°. Subway attendants interviewed by *The Washington Star* said they were aware of the breakdowns, but hadn't reported them to maintenance officials. The *Star* reporter noticed that the air-conditioning was working perfectly in the sealed kiosks where the attendants work...

The Dealer Prep Charge of $39,607 Includes Ten Free Gallons

Rolls-Royce has unveiled its new model, the Silver Spirit, which costs $118,000.

Although the car gets only 12 miles per gallon, a higher-m.p.g. version is in the works. "Customers want better fuel economy in an era when gas prices are rising so fast," a Rolls spokesman notes.

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TEN IRONIES That Made

Garfield died for your sins.

by Michael Nelson

Illustrations by LaMOUCHE

The story of bureaucracy's evolution in America, if not untold, is certainly unsung. Bright-eyed civics students who can rattle off the names of all the presidents on a dare would be hard-pressed to name, say, a single regulatory commissioner from this or any era; even some political scientists know little more of 19th-century public administration than that once there was a spoils system and then there was not.

Within this near-vacuum of information, two theories predominate. The first is that American bureaucracy was born of the welfare state. In this view, there is no point comparing a federal government that will spend more than a half-trillion dollars and employ almost three million people in 1980 with its three billion dollar, half-million person, pre-New Deal counterpart. The second theory occupies the opposite extreme: Contemporary bureaucracy, it holds, is just a bigger version of what we always have had. This theory recently received a boost from the Bicentennial and the feverish urge it spawned to trace every modern phenomenon back to 1776. Typically, an article in *Nation's Business* found "the seeds of today's vast federal bureaucracy" in a dozen decisions of the Continental Congress like this one:

"September 19, 1776. '... To assist the president of Dartmouth College, in New Hampshire, in maintaining their youth, who are not there under his tuition, and whom the revenues of the college are not at this time sufficient to support; [resolved] that, for this purpose, 500 dollars be paid to the Rev. Eleazer Wheelock, president of the said college.'

"Current budget, federal aid to education: $7.6 billion."

Clearly neither of these conceptions—that American bureaucracy is fresh from the cradle or that it is wizened with age—is wholly satisfactory. Yet the latter, so easily caricatured, seems closer to the truth than the former, which presently dominates the textbooks. Though American bureaucracy did not spring full-grown from the head of the Continental Congress, its character—its fundamental nature and structure, even its flaws—nonetheless substantially was forged long before the New Deal. Further, at almost every critical turn in our history, it was the efforts of elected leaders to enhance *popular* control of government

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Our Nation What It Is Today

that inadvertently planted the seeds of modern bureaucratic power. This is irony in the classic definition—distinct from tragedy because the errors were so unwitting.

The American nation was conceived as much in anger as in liberty—with much of that anger directed at abuses by the royal executive. As James Q. Wilson has pointed out, even a cursory review of the particulars of the revolutionaries' indictment of British colonial rule—for "unjust taxation, the weakening of the independence of the judiciary, the stationing of standing armies, and the extensive use of royal patronage to reward office-seekers at colonial expense"—reveals that "almost all of their complaints involved the abuse of *administrative* powers." Acting, or reacting, in this spirit, Americans tentatively formed a government in 1775 that was purely legislative in structure.

Whatever its form, though, the sole task entrusted to the provisional government was an executive, or administrative one: Win the war. At first, the Continental Congress tried to live up to this charter by making every decision, however minor, by itself. In a not atypical case, it appointed a legislative committee "to prepare a plan for intercepting two [enemy supply] vessels."

This form of decision-making doubtless comforted British sea captains, but it exasperated almost everyone else, including General George Washington. Early on he complained that "there is a vital and inherent Principle of Delay incompatible with military service in transacting business" in this manner, and recommended that Congress appoint people to do those things for it. Congress soon succumbed, and erected new institutionally distinct departments of foreign affairs, war, marine, and treasury. In so doing, following a pattern that later would become familiar, it inaugurated the First Irony of American bureaucratic history, by which *the revolt against the old administrative order planted the seed for a new administrative order.* The political goal of securing American independence from British administrative power led Congress to create for the new nation an administrative apparatus of its own.

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By any standard, the new executive departments were a vast improvement over what had preceded them. Their examples, and the bitter examples of those states that continued through the mid-1780s to experiment with legislative government, allayed doubts about executive power, but did not end them; the memory of the royal governors and their agents was still too fresh. Inevitably the Philadelphia Convention of 1787 mirrored this ambivalence.

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Though the Constitution it drafted established an independent executive, it was almost silent as to who would direct its administrative component. Why wave a red flag at the still-powerful champions of legislative supremacy?

It never did become clear to whom bureaucracy should be directly accountable. Historians have made much of the fact that in 1789 the first Congress voted to vest the president with the power to remove administrative officials—the presence in that Congress of so many of the framers, the argument goes, proves that the Convention's real intent was to place government agencies under presidential control. Be that as it may, subsequent Congresses clearly had interpretations of their own. Armed with its constitutional power of appropriation, statute-writing, and investigation, organized into specialized committees to monitor the departments more closely, and endowed by "King Caucus" with the right to nominate presidential candidates (of whom department secretaries were the most numerous), Congress demanded deference from the executive agencies perhaps greater than that given the chief executive.

As for the president's major constitutional administrative power, that of appointment, it was a mixed blessing at best—every nomination he made, wrote Thomas Jefferson, "*me donne un ingrat, et cent enemis.*" And even it was diluted in practice; when James Monroe merely expressed doubts about some of Treasury Secretary William Crawford's personnel choices, for example, Crawford called him a "damned infernal old scoundrel" and broke off communications.

Forced to live with the ambiguities of control from both political branches, agencies in the early 19th century set about developing power resources of their own. The secretarial salons were born—lavish entertainments at which the host cabinet member would woo congressmen and other powerful Washingtonians with good wine, attractive if decorous women, and fine music. In all this, there was a Second Irony: *The system of dual political control of administration became one of almost no control.* The new Constitution, in loosing the agencies from their old legislative moorings (a political necesity if the support of executive power adherents was to be won) without tying them securely to the presidency (equally politic if anti-Federalist support was to be kept) forced agencies to find and exercise relatively independent power. Agencies learned to play one branch off against the other.

Still, the "runaway bureaucracy" of the pre-Jackson period was small and its functions were modest—essentially to collect taxes and deliver mail.* Equally important, executive agencies at this time were not organized bureaucratically. They simply were run in the same way the law firms, small businesses, plantations, and military units the agency chiefs came from had been run. In those organizations, the standard rule of management was that the boss ran the show as he saw fit—he chose his subordinates for their personal as well as partisan loyalty and general "fitness of character," told them what to do, and kept an eye out to see that it was done. As Jeffersonian America was a nation of shopkeepers, so was its government a collection of shops. But, in the effort to forge a new government, the agencies had become distinct shops nonetheless, and quite independent ones.

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The mass political movement that elected Andrew Jackson to the presidency was fueled in no small measure by popular resentment of the new administrative independence, specifically of the privilege and corruption that were its by-products. Fitness of character as a standard for appointment to the civil service often had translated into fitness of family, and decades of administrative stalemate between Congress and the executive meant that few so chosen ever were removed. By 1828 the civil service had grown not only "old and feeble" but downright proprietary; as in colonial days, some public employees were asserting a right to pass office on from father to son. If the answer of disgruntled western farmers and eastern workers to all this was the election of Jackson, Jackson's own answer, contained in his fabled first

*In the early 19th century, congressmen outnumbered civil servants in Washington. The attorney general—there was no Justice Department—was a private lawyer for whom the government was one client. The president had no staff at all until 1857; George Washington hired his nephew, but paid him out of his own pocket.

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Great Moments In Federal Bureaucratic History
Washington Puts Nephew On Payroll—
Spoils System Begins

message to Congress, was equally blunt: "The duties of all public officers are, or at least *admit of being made*, so plain and simple that men of intelligence may readily qualify themselves for their performance; and I can not but believe that more is lost by the long continuance of men in office than is generally to be gained by their experience."

Rotation-in-office was the elevated description of Jackson's philosophy; "to the victor belong the spoils of the enemy" was Democratic Senator William Marcy's candid corollary. The conventional wisdom about the spoils system, familiar to every schoolchild, is that it represented the ultimate politicization of administration, the opposite of modern bureaucracy. Nothing could be less the case; indeed it is

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the Third Irony of American bureaucratic history that *spoils bred bureaucracy*. Jackson's patronage system hastened the reorganization of federal administrative agencies along bureaucratic lines.

As historian Lynn Marshall points out, Jackson's Democrats were the world's first mass-based party. Their "whole structure was firmly cemented by award of federal offices," especially local postmasterships. But government jobs, though less technical then than now, still were not so simple that any backwoods party stalwart could perform them on a moment's notice. Thus, the Democrats' dilemma: Satisfaction of the party faithful seemed likely to require the appointment of incompetent officials whose poor performance eventually would bring on a popular backlash fatal to the party. After all, more voters send mail than deliver it.

The Jackson administration's remedy lay in the words emphasized above—federal jobs "admit of being made" so simple that anyone can do them. Rather than take the agencies as they were and merely re-populate them, writes Marshall, "the Jacksonians proposed to organize the executive department as a rationalized complex of offices, ordered by function,

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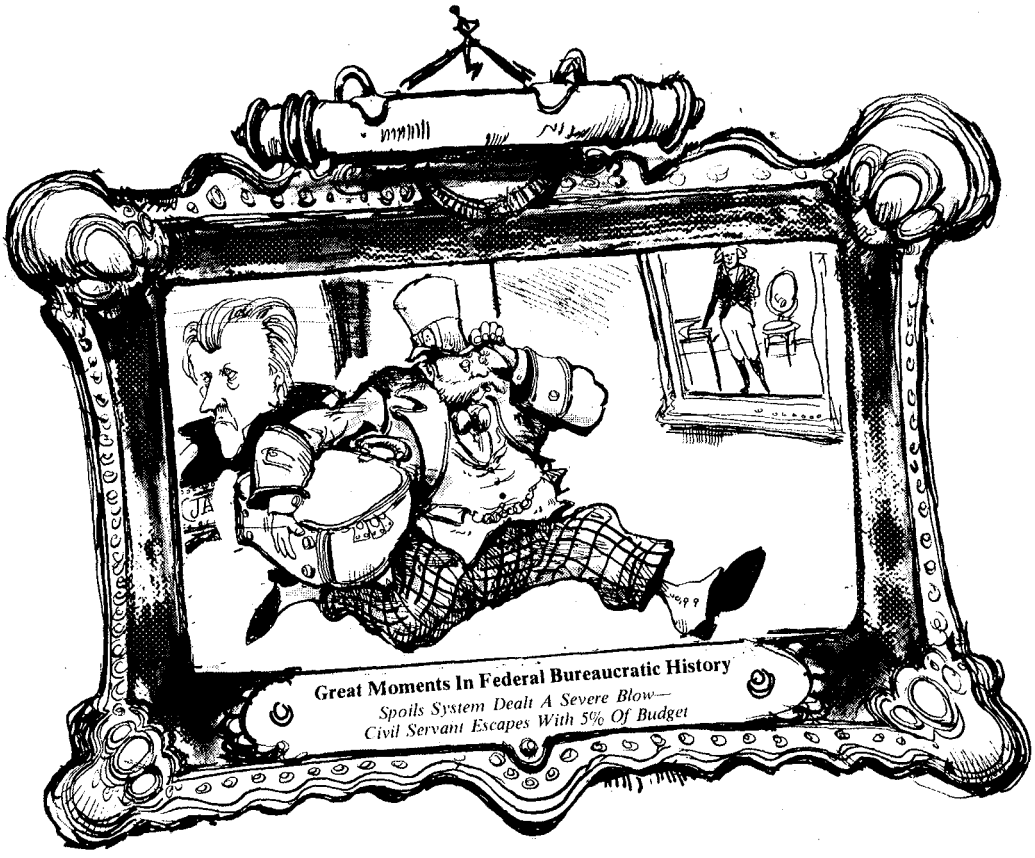

and defined by rules and regulations." Labor was to be divided, tasks defined, jobs simplified. "In this system individuals could be placed or replaced [after an election] without upsetting the integrity of the whole. . . . It was the administrative counterpart of the interchangeability of machine parts." Consequently, it was also the impetus, however inadvertent, to bureaucratic organization in American government.

But what would be the *form* of the new "bureaucracies"—would it be one designed to promote efficiency in government, coordination, cost-effectiveness, or some other value? The answer was shaped by the second of the Jackson movement's expressly political concerns: rampant corruption in the executive agencies. Westward expansion and the new temptations it spawned for land and currency speculation had subverted occupational morality in almost all sectors of society, including government. The extension of federal branch offices into the new and distant states made administrators' efforts to supervise field agents precatory at best. Jackson learned all this the hard way, as, for example, when his customs collector in New York City, Samuel Swartwout, sailed off to Europe, taking $1.25 million—a sum equal to more than five per cent of the federal budget!—and leaving "swartwouting" to the national vocabulary as a synonym for embezzlement. Clearly, more rigid, institutional mechanisms of control were needed if honest bureaucracy were to exist.

Amos Kendall, Jackson's tubercular, painfully shy political adviser and postmaster general, was the first to see what had to be done to restrain official thievery; he acted, and other civilian agency heads eventually followed suit. Kendall reorganized his department into an elaborate system of administrative checks and balances among newly organized offices of Accounts, Appointment, Contract, and Inspection, each watchful of the others. Lower-level jobs were redefined strictly to remove temptation; no longer would those who handed out mail contracts, for example, be the ones to oversee their fulfillment. Carefully kept records of every

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official action were required of employees, and auditors hired to pore over them. In the new system, the locals spoke only to the auditors, and the auditors spoke only to Kendall. In contrast to the type of "personal" organization that had preceded it, as political scientist Matthew Crenson concludes in his study of *The Federal Machine,* Jacksonian "administrative organization did not embody the personalities of its members; it counteracted them."

The decision to shape federal bureaucracies for the purpose of preventing corruption did not come without cost. All those internal checks and balances took time. For example, when the House Ways and Means Committee convened in 1836 to investigate complaints about the Treasury Department's excruciating slowness in releasing funds, it found that, in order to prevent embezzlement, five internal clearances had to be made prior to any department financial transaction. Hence, the Fourth Irony: *Agencies organized to avoid evil became that much less able to do good.* The popular political demand for honest bureaucracy restricted the possibility for efficient and responsive bureaucracy.

4

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The lessons of the Fourth Irony did not become apparent during the 19th century. Indeed, middle-class reformers, who never did take to the spoils system, actually rested the proposal for a merit-selected civil service on the argument that honest administration and efficient, politically responsive administration were one and the same. The theory that underlay this argument, best summarized by Herbert Kaufman, was that "policy and administration [were] distinct and separate, though related activities. . . . [T]hey wanted to restrict partisanship to the policy-makers in order to provide a superlative mechanism by which the voters' mandates could be carried out." In short, the reformers seemed to feel, a bureaucracy devoid of political appointees would be like a royal guard of eunuchs—an agency with no distracting wants of its own to impede the execution of its assigned tasks.

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Admittedly, spoils had become an easy target in the years after Jackson. It made continuity in government difficult and, despite the new bureaucratic checks and balances, was widely corrupt. The "Wanted—Situations" columns of Washington newspapers bulged with advertisements like this one from the *Star*: "$100 Cash and 10 per cent of salary for one year, will be given for a Position in any of the Departments." Political leaders featherbedded agencies in order to free employees' time for party labors. But these reasonable criticisms barely broached the indictment.* Blood was on the hands of the spoils system, reformers argued: Merit-less appointees had so prolonged the Civil War by their incompetence that thousands of soldiers had died needlessly.

In hindsight, the case for spoils is a powerful one. It democratized the public service, helping to legitimate the national government among the new classes of Jacksonian America. The actual proportion of swindlers probably was not much higher than it had been before, however conspicuous the exceptions, and though some political appointees were less educated than their predecessors, the newly bureaucratic agencies were better organized to accommodate them. As for the Civil War, spoils had no greater triumph. Without patronage to bargain with, Abraham Lincoln—no president ever used spoils more extensively than he—would have been hard-pressed to keep sullen northern congressmen on board through the military setbacks of 1861-62. And had federal agencies been staffed by tenure-protected employees before secession, the government might have had to prosecute the war half-full of southern sympathizers, a house divided in the most literal sense.

It is also clear through hindsight that civil service reform did not enhance democratic responsiveness as reformers had promised it would. Tenured public employees inevitably developed interests of their own, which seemed to coincide more closely with their agency's interest than with the wishes of the public or the elected branches. But whatever its retrospective value, spoils's doom was sealed with President James Garfield's murder in 1881 by Charles Guiteau, the campaign worker since immortalized as "a disappointed office-seeker." Shortly after the assassination it was revealed that in one of his many letters to Garfield, Guiteau had written: "The men that did the business last fall are the ones to be remembered." The shock value of his remark, then and now, is evidenced by this dark, decades-later assessment in the Civil Service Commission's official history: "No more revealing description of the spoils system had ever been penned."** The Pendleton Act passed soon after, giving birth to the civil service as we know it.

The Fifth Irony by now should be apparent: *Reformers' efforts to make civil servants more responsive to the political branches made them less responsive.* Compounding this irony is the manner in which the merit civil service subsequently grew. The Pendleton Act placed only 13,900 federal jobs—some ten percent—under the merit system; however, presidents were empowered to extend its coverage by executive order. This they did, for the purest of political motives. When Grover Cleveland took office in 1885, two years after the Act, he vigorously appointed Democrats in order to "redress the balance" of 24 years of Republican rule, then "blanketed in" their jobs under the merit system at the end of his term to prevent their being fired. As control of the White House bounced back

*One reformer wailed that "Some young women in despair, losing hope at the loss of their jobs, went wrong on the town. . . . Oh! the pity of it. . . . [T]he amiable madam's [sic] of the oldest trade in the world hospitally [sic] extended a welcome to these unfortunate recruits, and the folks back home unknowingly continued to enjoy the wages of an erring daughter whom of course they still thought a Government employee."

** The official Civil Service Commission history is a remarkable document. Entitled "Biography of an Ideal," it not only endorses all the old charges against spoils, but adds a new one: the death of President William Henry Harrison. "Harrison, who was nearly seventy when elected, was worn out when he took office by both the strain of the campaign and the importunate demands and counterdemands of the job seekers. He became ill during the third week of his term and died during the fourth. The official death certificate gave pneumonia and general weakness as cause of death, but the opinion of many historians is that the real cause was the spoils system." The historians, however many, are unnamed, so it is hard to tell what they would say about the effect on Harrison's health of his 100-minute outdoor inaugural address, delivered hatless and coatless on the coldest inauguration day in history.

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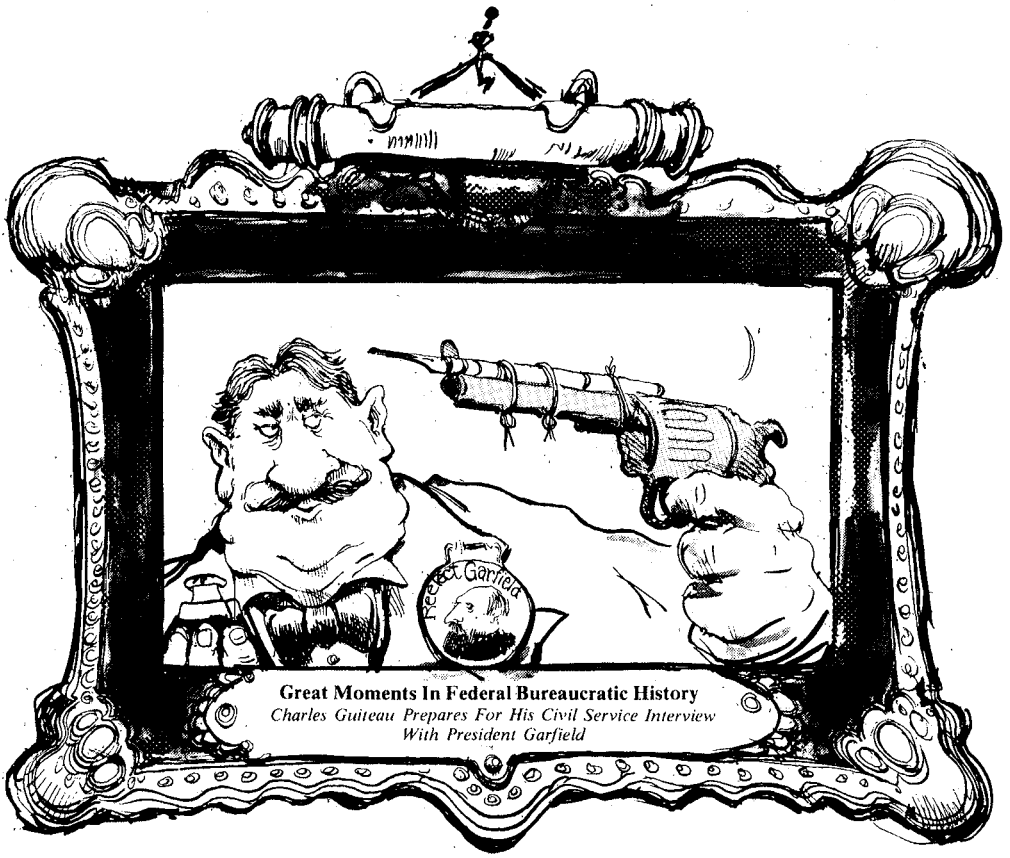

Great Moments In Federal Bureaucratic History
Charles Guiteau Prepares For His Civil Service Interview With President Garfield

and forth between the parties over the next half-century, successive presidents not only followed Cleveland's example, but steadily upped the ante. By the time of Franklin Roosevelt's election in 1932, 80 percent of the federal work force was merit-selected, most of them having been blanketed-in by presidents from both parties. Not surprisingly, almost every piece of New Deal legislation was to create a new agency, free of civil service domination, to carry it out.

★★★

While the size of the federal government grew through the early and middle decades of the 19th century, its functions really did not. James Q. Wilson notes, for example, that of the almost eightfold increase in federal employment between 1816 and 1861, 86 percent was in the Post Office, which simply had a larger nation to service.

The next half-century was different. New agencies proliferated, seemingly without pattern. The President's Committee on Administrative Management—the oft-cited Brownlow commission—concluded in 1937 that bureaucracy in this period grew like a farm—a wing added to the house now, a barn put up later, a shed built some other time, a silo at one stage, a corn crib at another, until it was spread over the landscape in a haphazard and thoroughly confusing way.

But as with most farms, there was an underlying order to bureaucracy's apparent chaos. The United States had been changing rapidly, from a rural society, individualist in its values yet rather homogeneous in composition, to one that was urban, industrial, and highly diverse. The rise of an advanced market economy produced new demands on government for "client agencies" that would represent and support society's increasingly distinct economic groups. It also generated demands for regulatory agencies that would protect weaker, albeit larger, groups from the more powerful.

None of this came easily, not in a political system invested, as ours is, with all

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the qualities of Newton's First Law of Motion. American government at rest tends to stay at rest; except in unusual times, its inertial resistance is overcome only when a powerful group is able to press the kind of claim on government that other powerful groups do not strenuously oppose. Such was the birth of the federal government's first important client agency, the Agriculture Department, in 1862. Farmers had organized a lobby, the United States Agricultural Society, to press for creation of a department that would represent their interests in the administrative branch. Powerful congressmen, mindful of the farm vote, and former presidents back to Millard Fillmore were enrolled as honorary members. The specific proposal the Society advanced seemed modest—a new department that merely would sponsor agricultural research and collect useful data. Who could object?

The story of what happened next will sound familiar to observers of modern bureaucracy, but it doubtless astonished the political Newtonians of the day. For once in motion the new Department of Agriculture not only stayed in motion, but accelerated, snowballing in size and, eventually, in function. The politics of this process were as follows: The new department was staffed, for obvious and entirely innocent reasons, by friends of agriculture. The legislative committees with jurisdiction over the department attracted sympathetic congressmen from farm districts, eager to advance their constituents'—and thus the department's—interests. The agriculture lobby grew in influence; its new power in Washington made it more powerful with the folks back home, the latter's support made it even more influential in Washington, and so on.

Were other powerful groups in society jealous? Certainly. Did they try to undermine the new agricultural agency or broaden it to reflect urban interests in lower food prices and the like? No, they simply demanded agencies of their own. Hence, the Departments of Labor—welcomed with embarrassing bluntness by Samuel Gompers as "Labor's Voice in the Cabinet"—and Commerce were created in 1913 after an effort to house them under one roof satisfied neither.

A century ago, the creation of client agencies must have seemed like democracy at its best—worthy groups in society demanding, government responding—but once again things turned out less than happily. The Sixth Irony of American bureaucratic history, in fact, is that *client agencies, created to enhance political representation in government, became almost independent from general political control.* "Interest triangles" among constituency, agency and committee became "iron-triangles," secure from the direction of either distracted presidents or apathetic majorities of congressmen, whose districts directed their own attention to the advancement of other interests, perhaps through triangles of their own. This kind of clientism still is described sometimes as the full flowering of political democracy, but nothing could be less the case. As Theodore Lowi, the Cornell political scientist, argued in *The End of Liberalism,* clientism is to democratic politics as monopoly capitalism is to free enterprise—its literal subversion.

The other set of demands born of the new industrial economy—for the restriction of economic power—resulted in the creation of the first regulatory agencies. Setting the pattern for the regulatory explosion that would follow, the Interstate Commerce Commission was created in 1887 largely to mute the mass protests of small farmers and other shippers, who were seeking relief from the high rates charged by monopoly railroads. In the familiar manner of "movement politics," when Congress caved in and created the ICC, the triumphant small shippers happily abandoned political affairs and went on about their business. Who was left to provide the new commission with the political support it needed to survive? Who to influence its staffing and monitor its activities? Who, aided by a sympathetic Supreme Court, to dominate the legalistic rate-setting proceedings? The railroad lobby which had "lost" the war found the peace that followed to be theirs for the asking. Thus, the Seventh, and familiar, Irony: *Regulatory agencies created in response to popular political movements became, in effect, client agences of the regulated.* The New York Central's William Vanderbilt, who earlier had answered complaints about high rates with a sneering "The public be damned," now found the railroads had a government agency backed by the force of the law to set their rates—and do their damning—for them.

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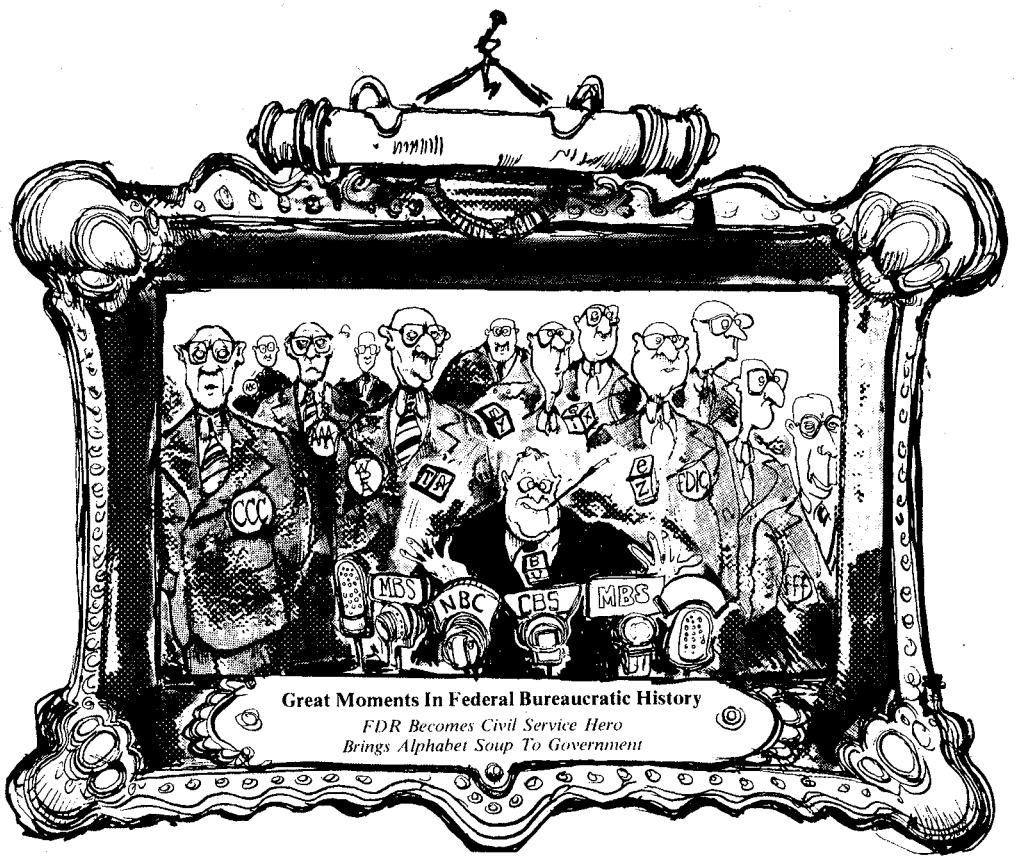

Great Moments In Federal Bureaucratic History
FDR Becomes Civil Service Hero
Brings Alphabet Soup To Government

In most of the standard chronicles, the history of American bureaucracy only really begins in the years just after the election of Franklin Roosevelt in 1932. In one sense—that only with the New Deal did bureaucracy become big enough and powerful enough to penetrate most people's lives—this portrayal is hard to quarrel with. But in two other, more important ways modern bureaucracy developed as a continuation, even a prisoner, of its past. The old ironies continued, even as new ones were added to the chain. And the ironies compounded, each fresh perversity arising out of efforts to undo those that preceded it.

So, when FDR wanted action from the government, first to fight the Depression and then to fight World War II, one of his principal techniques was the creation of new bureaus—the famed "alphabet agencies"—that weren't encrusted with traditions of immobility or staffed by civil servants from the Harding-Coolidge-Hoover era. He succeeded, but over the years, in ways too familiar to need recounting, many of the New Deal agencies that survived tended to become self-protective and unresponsive, just as their older brothers and sisters had before them. Thus we see an Eighth Irony: *The New Deal effort to circumvent bureaucracy in the short run created more bureacucracy in the long run.* When Lyndon Johnson declared war on poverty a generation later, he needed to create the OEO to work around the aging ingenues of the New Deal.

8

In the years since Roosevelt's death, two primary purposes have marked the efforts of bureaucratic reformers. One has been aimed at procedural change, the other at organizational change.

From the Administrative Procedures Act of 1946 through the heyday of Ralph Nader and his allies, "civic-minded" lawyers have sought to improve bureaucracy by making it more legalistic, providing for both quasi-judicial proceedings within the agencies and for judicial review of agency decisions once they are made. The idea was to be realistic—to face the fact that

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agencies wield power and apply the traditional restraints of due process to their decision-making procedures. For the Naderites, the goal was also to combat the Seventh Irony—clientism—by forcing on the agencies a broader range of interests, each represented by counsel. But the result has been to delay agency action even further, subjecting it to the power of yet more layers of unelected institutions: public-interest groups and the federal courts. And so a Ninth Irony: *Efforts to make bureaucracy fair have tended to mostly make it slow.*

9

The other great impulse of postwar bureaucratic reform, reorganization, has manifested itself in a flowering of new departments: Defense; Health, Education, and Welfare; Housing and Urban Development; Transportation; Energy; and now Education and Health and Human Services. Although clientism was a motive behind some of these creations, each such reorganization was also designed to make the government more efficient. Whether they achieved that goal remains unclear. What is certain is that in almost every case, the number of employees grew after reorganization. One reason, of course, is that when separate agencies are consolidated and transformed into components of a department, a whole new layer of supervisory personnel is needed to "coordinate" their actions. Thus the Tenth Irony: *The great goal of rationalizing bureaucracy has served mostly to make more bureaucrats.*

10

As recently as the early 1960s, bureaucracy's only real enemies were on the political right. Liberals like Paul Appleby and Alben Barkley defended it unblushingly even in the 1940s. Appleby dedicated his book *Big Democracy* "To John Citizen and Bill Bureaucrat," and keynoter Barkley quipped to the 1948 Democratic National Convention that "a bureaucrat is a Democrat who holds an office that some Republican wants." During the sixties, however, anti-bureaucratic sentiment began to spread leftward across the political spectrum. The first rhetorical shots of the student rebellion were fired against anonymous, "computer-card education" at Berkeley; urban rioters often torched the welfare office before the loan company. By the mid-1970s, Americans, so recently divided over the civil rights movement, the Vietnam war, and other issues, seemed united as seldom before in their anger about the ills of bureaucracy. Proposition 13 and the recent spate of constitutional convention calls are but the latest manifestations of this mood—the 1976 presidential election, for example, actually pitted a Democrat who was anti-bureaucracy, even though the modern welfare state is essentially a Democratic party creation, against a Republican who was anti-bureaucracy, even though, as president, he was its head.

This consensus seems to extend beyond a mere shared anger to a specific diagnosis of bureaucracy's failings. Left, right, or center, most seem to agree on its domination by special interests, its inefficiency and insensitivity, the excessive privilege of its civil service factotums, and its consequent unresponsiveness to the elected, political branches of government.

If there is a pertinent lesson to be learned from the ironic history that shaped the current period, it might seem to be one that justifies this despair: a lesson in the pitfalls of political reform. Time and again, major efforts to make administration more responsive to political control have had the opposite effect. It is enough to chasten even the boldest reformer if, like the sorcerer's apprentice, his every assault on his tormenters doubles their strength.

Is it enough, though, to convince us that modern bureaucracy as we know it was inevitable in the United States? After all, British, Russian, and private bureaucracies share many of the characteristics and draw many of the same complaints. Does bureaucracy evolve, then, purely in response to its own imperatives, ineluctably overpowering what Max Weber sardonically called its "political master"?

Only in part. For if it was inevitable—and surely it was—that the federal government would establish a separate executive apparatus, its constitutional removal from unambiguous control by Congress, the president, or anyone else was not. If it was inevitable that technical skills and other evidence of "merit" would become the standard for staffing bureaucracy, there still was no compelling reason not to preserve rotation in office, while simply raising the qualifications of those rotated.

The list goes on. Were client agencies inevitable? Probably; the proliferation of distinctive economic interests in society

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required some response by government. But the iron triangles that safeguard client agencies from general political control—an artifact of our divided system of powers—surely were not.

So reformers have cause for caution, but not for despair or inaction. And by recognizing the unanticipated consequences of earlier reforms, we overcome one of the greatest obstacles to learning from our past, namely the way in which our past failures have been depicted as triumphs. The final irony of our government's history may be that it has been remembered as free from irony. As a result, our heritage has been made to appear as a sort of gradual, scientific achievement, in which each new stage was built upon the improvements of the previous generation. In this apocryphal parade of progress, Americans first tried aristocracy, then politics, then when politics proved wanting they added the refinements of merit, reorganization, and "due process."

The true story—and the lessons to be learned from it—are far different. For example, if the Jacksonian period, instead of an era of total politicization, was predominantly a period of rapid bureaucratization in the interest of preventing corruption, then maybe Jackson's spoils system wasn't the definitive "test" of politicized government that our civics courses make it out to be. A partisan system of administration that was less obsessed with avoiding an outbreak of scandal and more concerned with efficiency and service—perhaps writing off a certain percentage to inevitable human frailties, just as a department store might write off a certain level of shoplifting—is something we've yet to try at the national level.

The key to ending our unbroken succession of ironies may be to uncover those assumptions—like the ambiguous separation of the elected branches, and the need to eliminate all possibility of corruption—that successive generations in their zigzagging attempts at reform have instinctively left unchallenged. Until then, the kind of bureacracy we have will prove little except our own failure. ■

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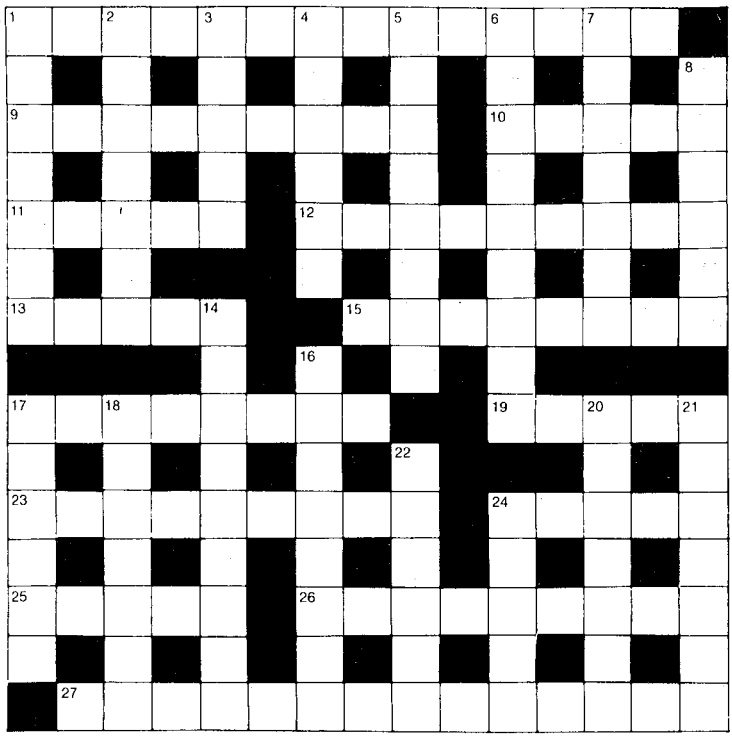
the political puzzle

by John Barclay



The numbers indicate the number of letters and words, e.g., (2,3) means a two-letter word followed by a three-letter word. Groups of letters, e.g., USA, are treated as one word.

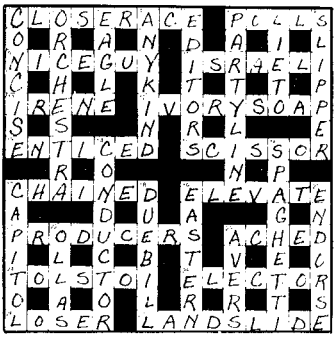
ACROSS

1 With 27 Across, turning point for 8 & 17 Down and 15 Across. (8,6)
9 Burnt late to become base for record. (9)
10 Compact new needs. (5)
11 Face Sadir attacks. (5)
12 Rebuilt ten-run rig is coming back. (9)
13 Reason to go back in 149. (5)
15 Spoiler spoils near nods. (8)
17 High government cases? (8)
19 Dance after Oliver leaves? (5)
23 Fiat citer arranged vocal part. (9)
24 Strange Susie has children. (5)
25 We hear she goes around Em. (5)
26 Drub aroma confused war trail. (5,4)
27 See 1 Across. (8,6)

DOWN

1 UN altar made to be not flat. (7)
2 Why rig van specially to be flexible. (7)
3 Friends in steam bath. (5)
4 November's last bit of fire. (6)
5 Inge felt strange briefly. (8)
6 Certainly did not overcome! (9)
7 Organs placed in slots. (7)
8 Anger a strange runner. (6)
14 Erect Sacco tent by the lake. (9)
16 Peculiar lab taste can be pronounced. (8)
17 No. 1 tracer comes around. (6)
18 Crazy CIA bill for germs. (7)
20 No. 1 shot goes awry, it's a fact! (2,5)
21 Arranged sea duty for 1 and 27 Across, for example. (7)
22 Strong structure in roof. (2,4)
24 At first Internal Revenue air quality index made trouble in oil fields. (5)

Answers to October's puzzle.



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Racking with Missey

Life at a Southern women's college.

by Helen Rogan

"A dinner is more elegant when the handsome guy sitting next to you is your Dad. A whirl around the dance floor is more fun because it's with your father." In this way *Campus Comments*, the newspaper of Mary Baldwin College, a Virginia girls' school, announces Junior Dad's Day. The event takes place once a year, in November, when Dad in his tuxedo escorts his junior daughter to a dance. The evening climaxes when each couple solemnly steps through a giant arch that looks like a ring. As cameras whirl and the band plays, Dad slips a class ring on his daughter's finger. The band strikes up a waltz; Dad and daughter circle the floor.

Since its inception in 1967, Junior Dad's Day has been a cherished tradition. Dad (or Daddy as they call him) is very important at Mary Baldwin. "They talk about Daddy all the time," a professor told me. Traditions are important at this school, too. Founded in 1842, Mary Baldwin is one of four Virginia women's colleges which have traditionally attracted nice young ladies of the South, or wherever else there are Dads who want their daughters to receive a good education in a gracious environment. Baldwin, Hollins, Sweetbriar, and Randolph Macon are all situated near the Blue Ridge—and Virginia Military Institute, Washington and Lee, Hampden-Sydney, and the University of Virginia which provide potential sources of gracious husbands.

The college sits atop a steep hill overlooking Staunton, a fading town in the Shenandoah Valley. Its cream and white buildings, "like a birthday cake on a hill" as one student noted, are not long forgotten by Staunton's residents—neither by the townies who drive through the tranquil campus late at night, drunk and hollering, nor by local merchants who must weather the high-handedness of the young women when they stroll in to buy.

I visited Mary Baldwin because I wondered what effects the social upheavals of the past decades have had on it. I knew that despite the fact that enrollments in small liberal-arts colleges are dropping, those few that resisted the pressure to go coeducational are becoming popular again. I wondered what it is that attracts students to Mary Baldwin, a school that should

Helen Rogan is a journalist currently working on a book on women in the army.

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seem like an anachronistic cloister to today's supposed generation of cynical hedonists.

To find out, I went straight to Tullidge dorm, home of Mary Baldwin's hard-core rowdies. They are known as the Tyrants of Tullidge, and their exploits are described by the student body's predominantly quieter members as wild and brazen. Almost all the students have their own cars, but Tullidge girls use theirs more because the dorm is 300 yards from the main campus. Tullidge has the exotic privilege of 23-hour parietals, which means that men can stay in the dorm whenever invited, as long as between 11 and 12 in the morning the girls are out of their rooms and sitting chastely in the lounge.

I first visited Tullidge in the evening, when everybody had returned from dinner on campus. In the lounge, five or six girls sat in front of the television, mildly gazing. The sound was low, the picture fuzzy, but nobody seemed to mind. Suzanne was writing letters with close concentration. A debutante from Richmond, she was dressed in high preppy style with Fair Isle sweater, Brooks Brothers shirt, jeans, and a gold Addabead necklace. Missey was sitting in the middle of the floor, right in front of the entrance to the room, with little pots of paint and brushes spread out all around her, executing with nonchalant ease a pretty if unoriginal watercolor of flowers—the kind of design that ends up on a tray.

Many Mary Baldwin students are beautiful, in a gleaming, sleek kind of way, and Missey is one of the beauties. She has an Edwardian style, with long dark hair swept up into a loose knot on her head, smooth oval face with discreet makeup, huge dark eyes, and a sexy little rosebud mouth. Missey is disliked by some because she is outrageously southern although she hails from Akron, Ohio; she is indulged by the rest because she's lively and funny. She drives a 1977 Cadillac with MISSEY on the license plates and a bottle of bourbon rolling around under the back seat. She flirts with (and greatly alarms) the boys at parties. One of her aims in life is just to Be Wild, pronounced *wahld.*

Bent over needlepoint, or painting their nails, they all talked about boys, in unsentimental terms. When one name was mentioned, Suzanne the debutante looked up from her writing, rolled her eyes expressively, and said, "He's a weird agent, honey." There was a burst of laughter. Someone asked politely if I would be going to any fraternity parties at Washington and Lee. I said I could not drive. At this, Arline, an exquisite, tiny girl with waist-length blond hair who was wearing the ubiquitous old-fashioned print nightgown with a ruffled yoke and long sleeves, shrieked and clapped her hands. "She can't drive! Isn't that cute!" Cute was one of the three most popular expressions on campus. The other two are "blow out," as in "That really blew me out," meaning to amaze and horrify, and "racking," which will be explained later.

A commercial came on the television and everybody was briefly distracted, looking at the screen with interest. Only Missey could look away. "Listen," she said, "if you want to know about our social life, you *have* to see the *movies.*" She bounded from the room.

Missey returned with a projector, and there was a noisy stir of excitement. More nightgowned figures drifted in while Missey and her friend Susie from New Orleans set up the little machine. The lights were switched off; the movie flickered, to a howl of delight and cries of "Raisinettes! Popcorn!" and there appeared on the wall a jumpy, blurred scene of what the girl sitting next to me said was a Sunday Party. There were shots of students dancing with flushed-looking boys and laughing hysterically. Girls were hanging on each other's necks, drinking beer, gesticulating at the camera and swaying in long drunken lines to inaudible music. There was a boy curled up, unconscious, in a closet. "Look, there's Kinsey!" they yelled.

As people recognized themselves and their friends in the crowd, they drummed their heels on the floor, clutching each other and giggling. A voice said in the darkness, "We were just obliviated. It was so *great.* We had a trashcan full of beer." There was Missey on the screen, high on someone's shoulders, her wraparound skirt unwrapping. She was wearing a red hat, property of The Hot Nuts, the black soul band which provided the music, and as she swayed and bobbed up there above the crowd she tore the hat from her head and waved it, and her hair unrolled in a spectacular, rapid tumble past her shoulders. The audience was in paroxysms.

The scene shifted to a beach, and girls in glamorous one-piece plunging white swimsuits and sunglasses. "*Myrtle Beach!* We

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were drunk on daiquiris from the *moment* we stepped on the beach!" The camera panned to show Suzanne the debutante sitting nervously next to a grinning boy. The cry went up, "Keep that back straight, honey!" More hysteria, and then suddenly the girls were in an orchard, dressed like scarecrows in bright raggedy greens and reds, with round daubs of paint on their cheeks. They were eating chicken and apples, and sprawling on the grass in heaps, like young schoolgirls. "Apple Day!" they screamed, and sighs of nostalgia wafted through the room. The picture faltered and disappeared. Someone scrambled up from the floor to turn on the lights, and all heads swiveled to stare at me. "Well?" was the unspoken question. Missey, pretending to be sheepish as she packed away her paints, batted an eyelash and murmured, "If my father ever saw those movies of me, I'd be yanked out of here *so fast*. Would you know we all have a test tomorrow?"

Tullidge

Preppiness, as practiced throughout the South, has little to do with the preppiness of New England, with its lounging coltish look of male and female alike. In the South it begins with jewelry. Missey told me, "You must wear heavy gold jewelry. Bracelets and earrings and little gold chains, and, of course, the Addabead necklace." The clothes resemble those worn by their northern sisters—the Topsiders and L.L. Beans, kneesocks and corduroys, khaki pants, alligator shirts, turtleneck sweaters. Initials on everything. Colors are either dull and dingy or the local variant, loud and obtrusive, as in bright pink with lime green. "Pink and green" is a favorite term of derision among the smart set at Mary Baldwin.

During the week, students fall into a routine of all-girls-together, which in the preppy style typified by Tullidge is exaggerated into japes. Sitting in her room one night, Arline described one. "The other night we'd all been drinking and they all said 'let's put on the ugliest things we can find' and so I said OK and we dressed up in these obnoxious outfits with huge wigs and purple stretch pants and high heels, and we blacked our teeth out and went riding around drinking beer. We picked up some rednecks driving down the street and told them we were going to Function at the Junction, which is about 30 miles out of town. They took off to the Junction and we went the other way and ended up at the roller skating rink. The guy playing the records told everybody to stop and clear the floor because these girls from who knows where were here. So we went out on the rink and Jill Goodman was so drunk she fell down about 20 times and she's black and blue." Arline laughed, and then said earnestly, so that I would understand, "We entertain each other."

Despite the parietals, men are not around all that much. Washington and Lee, the nearest men's college, is 40 minutes down the road. Social life centers on the weekend, characterized by the hysteria of the Friday afternoon exodus and the neurotic torpor of those left behind. Occasionally the roadtrip is reversed and the men come to visit. When they do, the atmosphere changes, as I saw the night of the senior dance. Before the dance I attended a cocktail party in Tullidge, a party intended to make everyone cheerful, i.e., drunk, before they went to the dance.

I hardly recognized the girls. They looked dazzling, backless and strapless in billowing chiffon and silk, fragrant and powdered and shining. They smiled and murmured softly to each other and to their dates, large healthy-looking young men with broad shoulders and large grins. They looked askance at the drinks poured by their bartender, a new member of the economics department. "That wimpy Mr. Clifton," one of the girls muttered, "he doesn't even know how to mix drinks. I had to give my drink to somebody and get him to put more vodka in it. You see, he's like our parents. They make 'em to relax, but when *we* make 'em, boy, we want to get downright drunk."

I could see why. Despite the politesse and finery, there was palpable tension in the air, and many of the students, clutching grain cups as they waited for their dates, smiled in a glittery, doomed sort of way. Arline became reflective as the drink took hold, and said that by junior year the boys were not really interested anyway. Most of them were beginning to drift back to their Home Town Honeys, usually abbreviated to HTH. I asked if she really liked these men, or was merely looking around for the best available. At that point who should appear but Kinsey, he whom I had last seen

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on film, passed out in the closet. His girlfriend introduced me, with some pride, as The Author. Kinsey said jovially, "Oh, you must be writing about dumb girls." I glanced around and saw only composed smiles. "Maybe I should write about rude boys instead," I said. An embarrassed pause followed. Evidently I had committed a gaffe.

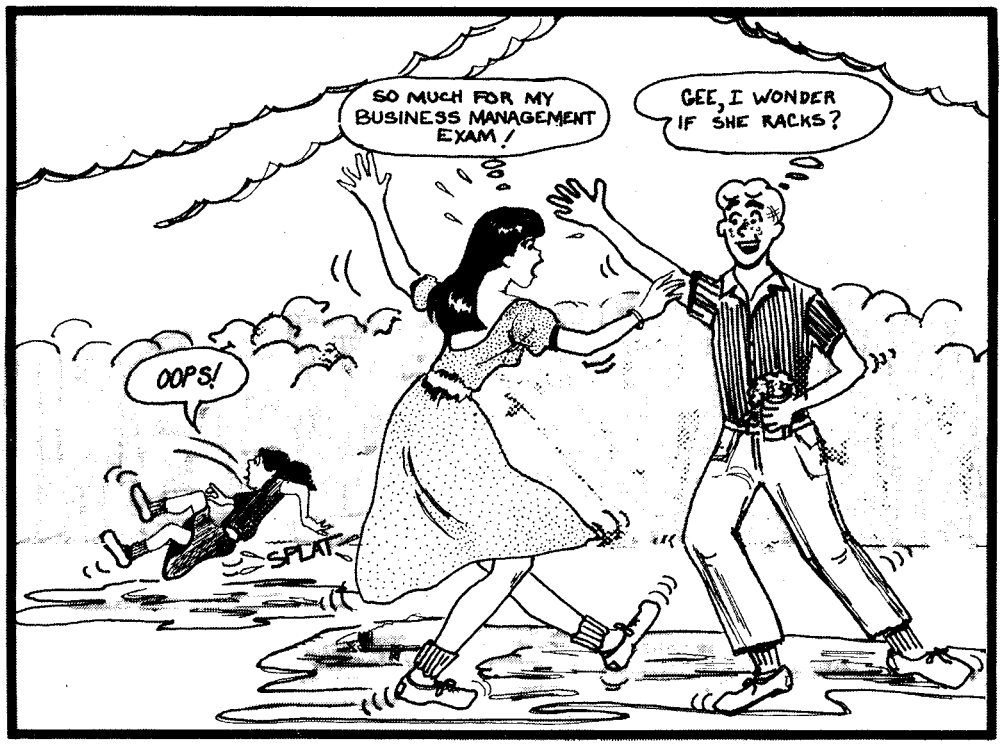
The boys, particularly, began to stumble from all the 25-cent beer and the grass they had smoked outside. Arline was dancing the shag, a dance the '60s wiped off the face of the planet but left for educational purposes in the South. They dance this way in the Richmond private schools, but students from large high schools have to learn it as college freshmen. It is descended from the lindy and the bop: they were twirling under their partners' arms, and performing the variation where each person loops linked arms around the partner's neck and then slides the hands down the other person's arms.

Suzanne, her cheeks glowing, clutched my hand and whispered ecstatically, "I got someone a blind date and it's working! I'm so excited!" Missey and Kinsey, who seemed very well matched, were laughing wildly and leaning against each other as they sat on the edge of the platform. Arline stopped dancing to deliver a monologue about her best friend from Nashville, who had been killed in a car crash. A boy pulled her up from her chair to dance. Her feet in their spiky shoes shot out in front of her and she crashed to the floor. She swiftly picked herself up, grimacing, and said to me, "I tell you, honey, every nice dress I've ever had has been ruined in this hall."

By now rivers of beer were running down the floor, and all around the hall girls and their dates were tumbling and sliding. Many of the girls had prepared for this moment by dashing back to the dorms and changing into their sneakers. Sneakers with cocktail dresses did not trouble them. The women had a practiced gesture of quickly wiping their hands on the back of their dresses as they got to their feet. By 1 a.m., the few couples left on the floor were grimy and exhausted.

Racking

So when you and your date are both *really drunk* and your dress is filthy and one of you can't drive home, that is when



CATHY ABRAMSON, *with apologies to Archie*

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you "rack." Missey explained the term. Smoothing her skirt and looking in my direction through lowered eyes, she said, "Now I know you're going to be shocked. I was, and I still am, and my *mother,* oh if she *ever* found out... racking—and I do *not* condone it—racking is when (don't say that I racked because Lord have mercy) it's when you have a date and you are so drunk that you PASS OUT ON THE *BED* TOGETHER! I've racked three times but for a lot of these girls racking is *nothing*! I racked last night! It's so embarrassing! Anyway, everybody gets teased about it. People come in and they ask 'Did you rack? Did anything happen?'"

The point is that nothing has to happen. Racking's secondary meaning is to have sex, but this is not automatic. Hence the term is particularly convenient for Mary Baldwin girls. They can use it to brag about their exploits without having anyone know what their exploits were. I asked Arline what she thought about sleeping with boys. She said, "What do you mean, 'sleeping with'? Do you mean just sleeping in the bed?... You mean sex... Oh. Well, that for me is *out* till marriage." I asked Missey what most girls did in the way of sex. She leaned close and said confidentially, "Some of these girls think nothing of letting a boy go down to the waist on their first date." Down-to-the-waist is an idea that has rather lost ground among 20-year-olds in recent years, but not here.

Spenser

Tullidge rooms are a chaotic mess of clothes and photographs and half-drunk Cokes, but rooms at Spenser dorm were displays of stuffed toys, Snoopy and Winnie-the-Pooh cushions, sprigged sheets, primary colors, posters of Robert Redford, family photographs in white plastic frames, souvenirs from the boys' schools, poignant mottos pinned to bulletin boards, and racks of hairbands. Spenser students pal around in a large amiable herd, just like girls at boarding school hanging on each other's necks. They seem to be modeling themselves on their younger sisters. Many are plump and pink—freshmen automatically put on weight in this kind of environment, because part of the young female herd instinct has always been to eat sweet things, in huge amounts.

Watching their pleasure over doughnuts, I remembered my boarding school days in the mid-1960s, when we ate up to 12 pieces of toast and "red jam" for Sunday tea. Once we went upstairs after tea and stood rhythmically banging our bottoms against the wall to the sound of the Top 40 on the radio. Somebody had heard that bottom-banging broke up cellulitic tissue. We did this in our striped senior blazers, until someone fainted.

For Spenser girls, the thrill of pigging out was paltry compared to TV-watching. They would watch anything that was going on, silent, inert, as one student described them to me, "like crocodiles in a swamp." The TV lounge is a hearth without conversation. I logged many hours in front of the television, succumbing, dormouse-style, to the pleasant drowsiness. One night we spent a couple of hours with Bob Hope. We dozed peacefully until Donny and Marie appeared. Everyone perked up. "Isn't he cute?" "*I* don't think he's cute. Do *you* think he's cute, Beth?" Later, Gerald Ford ambled into view, and the students melted into nostalgia. "Oh, I wish he were still president!" someone sighed. "He was so nice." Another said, "I thought Nixon was real cute."

Spenser students share rooms, and they were thrilled to do so. Two Spenser girls, Melanie and her friend Betsy, spent a long time trying to explain to me the advantages of sharing. Melanie said, "You want to have some person who is responsible for you. When you come back, you want to know there is someone in your room who understands your need to be as bitchy, as tired, as sick as you want to be." She said with great conviction, "I'd be unhappy by myself." Betsy, a sweet-faced young woman, had earlier told me about her feelings of ambivalence toward being an adult. ("Sometimes I just feel I want to be a little girl again. Then I think, Betsy, you have to grow up.") She nodded in agreement. Melanie continued, "I like to know someone's there if I get ill in the night. I want someone who I can tell I had this awful nightmare and I'm scared to death." I asked how often she had terrifying nightmares, and they started to giggle. Melanie added, "Or when you've just broken up with your boyfriend. Or when your mother's called and said she won't send your allowance."

Melanie said that when she had the flu, 30 people dropped by to see her in two

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days. These paeans to togetherness were common. Girls kept saying, "What if you got sick in the night?" as if they were all hanging by a thread, huddling together in an unfriendly world. I felt as if I was in a hospice, not a dorm. Their friends and the structured calm of college life had replaced their parents, and they would move inexorably toward what Germaine Greer calls "the tweedy shoulder" of the man who was to support them through life. One said of her friends, "The majority want to be all secure and married—or will, once they're out of school a year, not surrounded by all their friends in a college atmosphere, and they go home to an empty apartment where nobody's waiting and their parents are 500 miles away and their friends are scattered all over the country."

No Addabead for Me

What if this place went coed? Whenever I asked the students, there was a perceptible flurry of agitation. Everyone started to fret about physical appearance. Missey said, "I'd have to be up at 6:30 a.m. with the heated rollers going. . . ." Arline, who grew up with four older brothers and is quite at ease with men, said in horror, "I'd go to Hollins! I don't want 'em around. It would spoil everything." In addition to being anti-male, the young women were anti-feminist as well. When I asked them about the ERA, they would shuffle and mumble, and finally voice the familiar superstitions about being drafted and having to share bathrooms. Often I heard, clear and distinct, the voice of a parent. Arline said, sighing in a world-weary way, "If they'd just leave things alone, they might have a chance to work themselves out. But they push you so much that it exhausts you." I remember watching her waving from the inside of a carful of boys, cheeks flushed, blond hair flowing, jewelry all agleam above the pink Fair Isle sweater. She didn't look exhausted.

The feminist view, however, does reach the students. It comes from the liberal faculty and the administration in a steady but soft voice. The chaplain plans a "lifestyle colloquium" in an attempt to get the students to think about their futures. (I was told that they had to give up plans for an "assertiveness workshop" because the word "assertiveness" was too close to "aggression" and would scare the girls away.) In a "Biology of Women" course, students learn about the prejudice they may encounter from male doctors. The idea of career over jobs is stressed at all times. As a result, even though the career advisory service is rudimentary and relies as heavily on booklets as a travel agency, some glimmerings of change are visible.

The president of the college, an ambitious, tense woman named Virginia Lester, has made changes in the curriculum, such as the only course in business management offered by a southern women's college. Nevertheless, improvements in the career advisory service are unlikely to inspire any profound change. The faculty and administration are stuck in attitudes that may, in fact, hold the students back. One is undue pessimism, as expressed by a professor who said, "Maybe an undergraduate is not capable of being a feminist. I feel sorry for freshmen, because there is this assumption that an 18-year-old is an adult, and capable of making serious and important decisions." This is the Mary Baldwin view of life-as-a-minefield, students as casualties. Some of the young women on campus were as mature and well informed as you could find anywhere, but too often their maturity was expressed in the classic female terms, as veto power—no Addabead necklace for me, thank you, no fraternity boyfriend.

Here is how one Tullidge student saw the future: "We'll all be sharing apartments in Richmond or Washington or Atlanta. Most of them want to work in a little clothes shop or needlepoint shop, or a jewelry store or an interior decorator's office. Or they'll go home and work for their fathers for a while. Then Louise wants to design sheets and pillowcases, and Missey wants to be an interior designer. And me? Oh, probably just a little job; something to do with social service. One of the reasons I got into education was my parents insisting that if I got divorced I'd have something to fall back on."

She continued. "Sure, Daddy gave me a BMW—he felt sorry for me on my birthday—but every time I do something wrong he threatens to sell the car. And he says, 'Your husband's going to up and leave you, and then what are you going to do? Wrap packages in the back of Woolworth's?' "Well," she said, her smile deepening, "that is a very good point." ■

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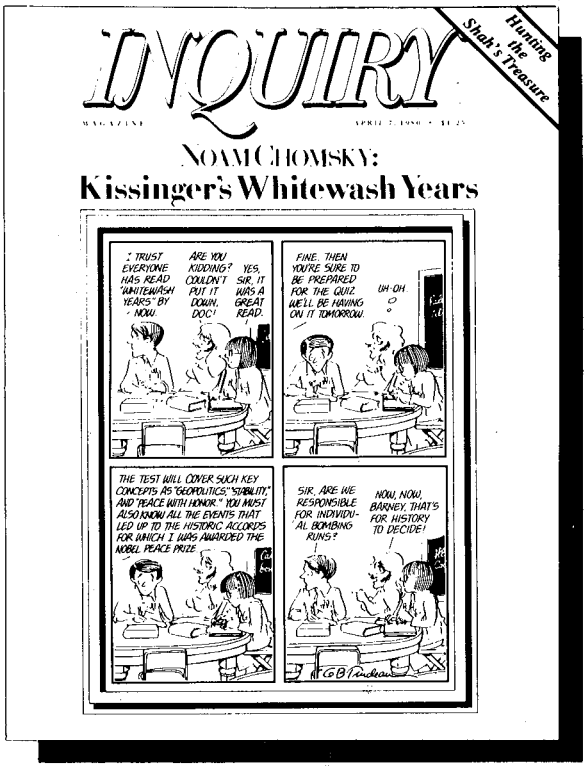

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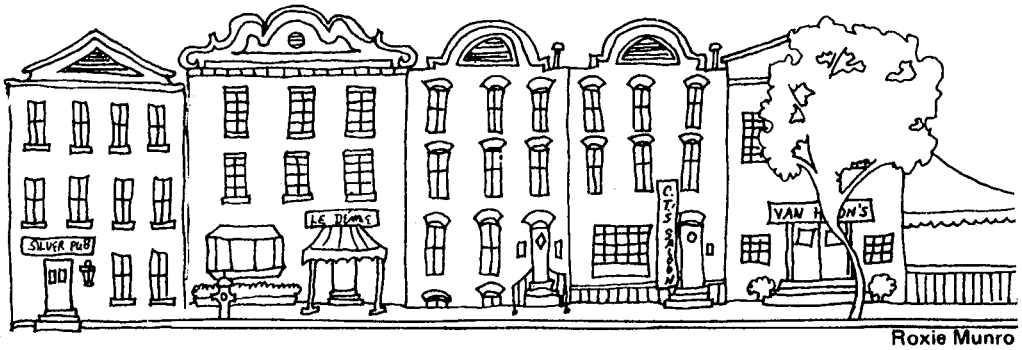

Roxie Munro

Where to stay in Washington

Southwest

Southwest Washington has a different feel from the rest of the city, partly because so many of its old houses were bulldozed, beginning in the early 1960s, and replaced by apartment houses and office buildings that will never understand the meaning of the word "neighborhood." There are lots of new town houses, too, but they have an ersatz-Georgetown look. The area has its appeal, however: it borders the Potomac River and the Mall, putting a panoply of museums and galleries within reach, and if you're here to petition the government, many agencies are close at hand: HUD, DOE, USDA, EPA, HHS (ex-HEW), DOT, NASA, and FAA, just to mention a few of the many marbled acronyms.

• **Channel Inn,** Maine Ave. and 6th St. S.W., (202) 554-2400. If you long to be close to the sea, this is the best you can do in Washington—on the Washington Channel, overlooking the Marina, with the Maine Avenue fish markets nearby. The hotel is big on nautical themes, with wood paneling and prints of ships, sailors, and seagulls scattered around. The guest rooms are out of step—they favor Louis XIV—but they're being redecorated into neo-Gloucester, and a 50-room addition to the current 100-room complex will be going up in 1981. Singles, $54-58; doubles, $64-$68 (higher-priced rooms have a river view); there are two two-room suites at $100. Children under 12 free; additional persons in room, $6 each; AAA members get a 20% discount on weekends; parking is free. *Pier 7* restaurant, overlooking the Marina, serves medium-priced fish and beef; breakfast is available every day in a cafeteria-style coffee shop. Tennis courts, jogging paths, and a golf course are within reach—a long reach, though—at Hains Point.

• **Loew's L'Enfant Plaza,** 480 L'Enfant Plaza S.W., (202) 484-1000. A step up in style, price, and height—the 372 guest rooms are located above nine floors of offices, giving them a lofty spot on Washington's low-rise skyline. This is no intimate hideaway: with a ballroom and nine meeting rooms, the hotel can accommodate 2,000 revelers, and sometimes does. The hotel pays nodding homage to Washington's planner, Pierre L'Enfant, with Frenchified decor throughout. Rooms offer some extras, including a refrigerator and cupboard stocked with snacks and spirits (you pay for what you consume) and, in the more expensive "Club 480" rooms, such things as an extra sofa bed and that vital accessory, a phone in the bathroom. Room prices vary with the view (some overlook the city, some the Potomac, and some the back of HUD). Singles, $70-$95; doubles, $85-110; Club 480s (all facing the inner courtyard), $110-$125; two- and three-room suites, $175-$415. Children under 14 free; additional persons in room, $15 each; group rates available; parking, $4.50 overnight. The hotel also has two weekend packages at up to 30% off, with some extras included. L'Enfant Plaza offers a range of restaurants: *The Apple of Eve*, appropriately seductive and expensive, with a lounge for late-night dancing; *The Greenhouse*, full of foliage and moderately priced, serving breakfast and lunch; *The Quorum*, for lunch and drinks in the evening; and *Pierre's Patio* (!) for a sandwich or salad.

• **Skyline Inn**, South Capitol and I St. S.W. (202) 488-7500 or (800) 528-1234. If you have business at the Departments of Education or Health and Human Services, or at the House of Representatives, this is a convenient choice. The environment isn't much—low-income housing on one side, empty warehouses and vacant lots on the other—but otherwise this is a good family hotel, with rates that are reasonable (for Washington), tennis courts across the street, Gray Line and Tourmobile pick-up, free parking, and a Budget Rent-a-Car outlet at the hotel. There's a genuine coffee shop (counter and stools); *Board 'N Bottle*, a restaurant with reasonable food (seafood mostly) at reasonable prices; and a lounge with entertainment on weeknights. Rooms are newly redecorated and comfortable. Singles, $48-60; doubles, $56-$70. Three of the 203 rooms are two-room suites at $84-95. Groups booking 15 or more rooms can get about 20% off; discounts also for military people. Children under 12 free; additional persons in rooms, $6 each.

—Carol Trueblood

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political book notes

Public Affairs books to be published in November

All Fall Down: One Man Against the Waterfront Mob, *Donald Goddard. Times, $12.95.*

The Atom Bomb Spies. *H. Montgomery Hyde, Atheneum, $12.95.* World War II has just ended, and a Russian code clerk in Ottawa blows the lid off the network of informants who are transferring atomic secrets from the West to Moscow. We've had this before, but it's still hot stuff, especially enriched by information from "Intrepid," the fabled head of Canadian counter-intelligence. This book is solidly researched, too. Just one problem: it's stuffy and dull.

—Hal Handerson

The Bitter Pill: Doctors, Patients, and Failed Expectations. *Martin R. Lipp, M.D. Harper, $11.95.* Chronically depressed and burned-out doctors—"impaired," as they call themselves—are commonplace in America today, according to Lipp, a psychiatrist who candidly diagnoses himself as among the afflicted.

It's not news that many doctors aren't really practicing medicine any more—they're operating assembly lines—but the failures of the system are generally seen from the patients' point of view. Lipp's book will be useful if enough doctors read it, if they see themselves described in it, and if the shock of recognition forces them to start healing their own profession. The evidence is that the rest of us can't do it for them.

—Thomas N. Bethell

Black Is the Color of My TV Tube. *Gil Noble. Lyle Stuart, $10.00.*

The Cola Wars. *J. C. Louis and Harvey Z. Yazijian. Everest House, $15.95.* This book is The Real Thing—an extraordinary example of how dedicated analytical journalists can unravel complexity in a way that is both informative and purposeful. Looking at the multinational cola industry, the authors criticize mercilessly, award credit where due, and draw the delicate distinctions between good and bad without lapsing into hysteria.

Most attention will probably focus on the book's detailed accounting of Coca-Cola and PepsiCo hanky-panky in the Third World. But equally interesting is the story of their ultimate achievement in image-projection—companies whose advertising is more important than their product.

Coke was created in the 1890's as a patent medicine, supposed to cure everything from lumbago to multiple personalities. When its promoters realized the limits of that market, they aligned themselves with the Methodist church and began to push Coke as the teetotaller's alternative to alcohol, using religious themes like "Coke revives and sustains." But even then, they had an image problem. After all, Coke's active ingredient was cocaine. The fact that soda jerks called it "cold dope" didn't help.

Relieved of its cocaine, the drink was repositioned again as a general refreshment, sold under slogans like "It's clean and pure, that's sure." Even in the early 1900s Coke relied on techniques we think of as recent innovations—demographic analysis, test markets, subliminals, and testimonials from athletes.

Of special interest is a bittersweet recounting of Coke and PepsiCo's apparently sincere attempt to market a line of nutritious beverages (never sold in the U.S.) in underdeverloped nations. The drinks were wholesome, tasty, and full of vitamins and proteins. They never sold. The authors note the irony: "The companies have become so awesomely efficient at convincing throngs that their sugar and caffeine drinks provide some sort of ill-defined yet valuable pyschological lift, that they find difficulty in marketing products whose virtues are real, measurable, and useful."

Perhaps the penultimate achievement of this style-over-substance industry is the new RC 100 cola from Royal Crown. It contains no sugar, no caffeine, and no flavor. The sales campaign emphasizes that it is 100-percent devoid of everything. And that tells us something about how society has changed since the 1890's. Back then, people longed for a little bit of something obscenely rich. Now, the only thing that satisfies is nothing, in great quantities.

—Gregg Easterbrook

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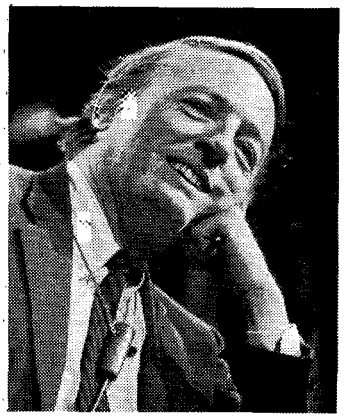

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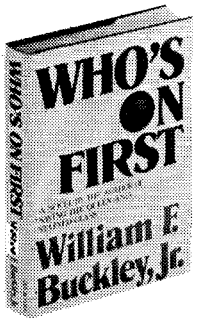

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The Cult That Died: The Tragedy of Jim Jones and the People's Temple. *George Klineman, Sherman Butler, and David Conn. Putnam, $14.95.*

Chrome Colossus: General Motors and Its Times. *Ed Gray. McGraw-Hill, $16.95.*

Consumer Tactics Manual: How to Get Action on Your Complaints. *John Dorfman. Atheneum, $11.95.* A former editor of *Consumer Reports,* Dorfman knows his way around the wonderful world of widgets that don't work and people who won't listen. This is one of those books you'll feel good about having on your shelf, but don't expect it to come through for you every time. If you have trouble with a train, for example, you are advised to write to Amtrak. Mmmm*hmmmmmm.*

Democracy, Authority and Alienation in Work: Workers' Participation in an American Corporation. *John J. Witte. Chicago, $20.00.*

The End of Order: Versailles 1919. *Charles L. Mee, Jr. Dutton, $15.95.*

The Foreign Policy of Hitler's Germany: 1937-1939. *Gerhard L. Winberg. Chicago, $44.00.*

From Ballot to Bench. *Philip L. Dubois. Texas, $22.50.* What's the best way to select state judges? The basic conflict is between accountability and independence—or, as a cynic might put it, between a spoils system rewarding political hacks and a merit system operated by logrolling bar association peers.

Merit systems, Dubois concludes, have neither eliminated politics nor assured quality. He comes out for electing judges: it boosts voter participation and keeps judges on their toes. Dubois doesn't put it that way, of course; since he's a political scientist his book leans to phrases like "demonstrable relationships between party affiliation and judicial policymaking;" and the "rule of anticipated reactions." But a reasonably cogent argument emerges nevertheless.

—Pat Martin

Good Life/Good Death: A Doctor's Case for Euthanasia and Suicide. *Christiaan Barnard. Prentice-Hall, $8.95.* The wrong man making the right argument, urging his colleagues to stop playing semantic games about "active" and "passive" euthanasia—the distinctions between prescribing the end of life and pulling the plug are pretty blurry, as he points out. Barnard is too easily dismissed as a Johnny-Carson-guest-type to be a really effective spokesman for an intelligent euthanasia policy. Too bad.

The Invisible City: A New York Sketchbook. *Pete Hamill. Random House, $9.95.* Forget the silly photographs of Hamill in every other issue of *People,* sporting his reporter's trenchcoat and squiring Jackie O or whomever to wherever. The real people he writes about in this collection of urbana could have become cliches, but didn't—a credit to Hamill's skill.

The Law and Politics of Abortion. *Carl E. Schneider and Maria A. Vinovskis, eds. Lexington, $15.95.* An overview, by social scientists and legal scholars, of the political and judicial confusion that has been swirling around the abortion issue throughout the past decade. There is a detailed retrospective on the relevant decisions of the Supreme Court—supporting the view that it has spent far too much of its time second-guessing the legislative process—and there are some interesting analyses of the impact of abortion on the 1976 elections, suggesting that (a) the public hasn't been as excited about the issue as all the media attention might indicate, and (b) the Supreme Court, Mr. Dooley notwithstanding, hasn't been following the election returns. *—P. M.*

Managing Health Systems in Developing Areas. *Ronald O'Connor, ed. Lexington, $27.50.*

A National Strategy for Containing White-Collar Crime. *Herbert Edelharty, Charles Rogovin, eds. Lexington, $15.95.*

Off the Record: The Private Papers of Harry S Truman. *Robert H. Ferrell, ed. Harper, $15.00.* Nearly 30 years' worth of memorabilia (1945-1972) from a man to whom historical hindsight is kinder by the day. He sounds so feisty that it's hard to assess his terrific chew-the-roots rhetoric against actual accomplishment. Truman's real appeal, reinforced by this collection, is that David Garth wouldn't have known what to do with him. *—T. N. B.*

Power and Powerlessness: Quiescence and Rebellion in an Appalachian Valley. *John Gaventa. Illinois, $16.50.* A thorough dissection of the power relationships in a part of the United States where economic colonialism is still practiced with a vengeance. In Gaventa's Tennessee ironies abound, because the community he describes has been thoroughly dominated by the American Association—a British company, despite its name, pulling the strings of Appalachia from London. If you've ever wondered about the seemingly irrational hatred colonial peoples feel for the English, Gaventa explains all with this quote from a BBC reporter interviewing a company functionary about the people who happen to live in the path of the company's strip-mining bulldozers:

BBC: Don't you have a sort of moral responsibility to . . . the people . . .?

Funk (that's his name)*: No sir, these people don't work for us. . . .*

BBC: But they're living on your land, aren't they?

Funk: We don't have any responsibility for them . . .

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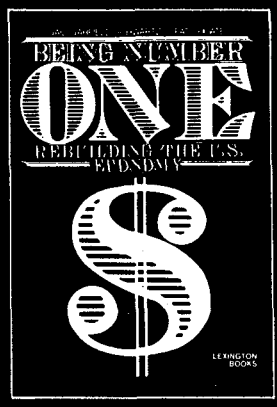

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BBC: You mean they get in the way of the strip-mining operations?

Funk: Well, I don't say they get in the way, but they just don't add anything to the assets of the company.

Indeed. Moreover, as Gaventa demonstrates, the philosophical distance between the corporate empires of London and the New World is very short. —*T.N.B.*

Walking Through Israel. *Daniel Gavron. Houghton Mifflin, $12.95.*

Whistle Blowing. *Alan F. Westin, ed. McGraw-Hill, $12.50.* All about courageous people who place moral principle above personal expediency. Naturally, it's a short book.

This brisk and valuable work consists of 10 first-person accounts by the whistle-blowers themselves. The most compelling chapter is by Dan Gellert, the Eastern Airline pilot grounded by Frank Borman for trying to save passengers' lives.

Gellert was flying a new Lockheed L-1011 in 1972 when it suddenly went into a dive. Later, Gellert traced the problem to a design flaw in the autopilot, which misread its altimeter. He theorized that the problem would be acute at low altitudes, and confirmed his hunch by repeatedly "crashing" a flight simulator during mock landings. He warned Eastern's management. Nothing was done. On December 29, 1972, an L-1011 crashed on approach to Miami, killing 103. Autopilot malfunction was determined to be one of the causes.

Not only did Eastern respond by spending several years making Gellert's life as uncomfortable as possible, it also took its time fixing the defect. Gellert speculates that a rapid response would have been seen as an admission of negligence—something Lockheed couldn't afford at a time when it was already dangling by the thread of a federal bail-out loan. The inexcusable aspect of the delay was that the problem wasn't anything perplexing, like engines that explode when the john is flushed. It was just a computer programming flaw, easily and cheaply corrected.

The message running through this book is that industry has become indistinguishable from government in its obsession with postponing the inevitable day when problems must be dealt with. Managers whose hands touch only paperwork—never the product—may have clean fingernails, but they develop a curious problem-solving logic: "This Pinto's just not selling like it used to. We'd better correct a serious design flaw in our choice of ad agencies." —*G.E.*

Wising Up: The Mistakes Women Make in Business and How to Avoid Them. *Jo Foxworth. Delacorte, $9.95.* An infinite number of monkeys sitting at an infinite number of typewriters could turn out a book like this once a month. They do.

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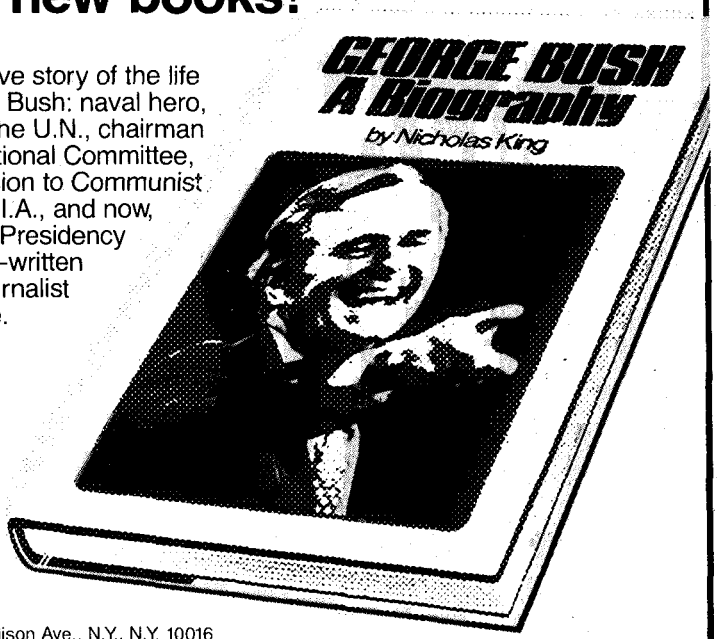

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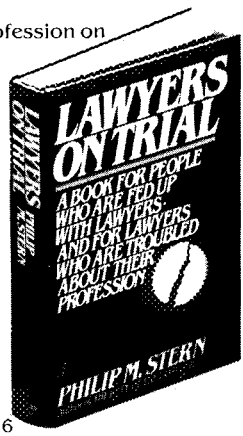

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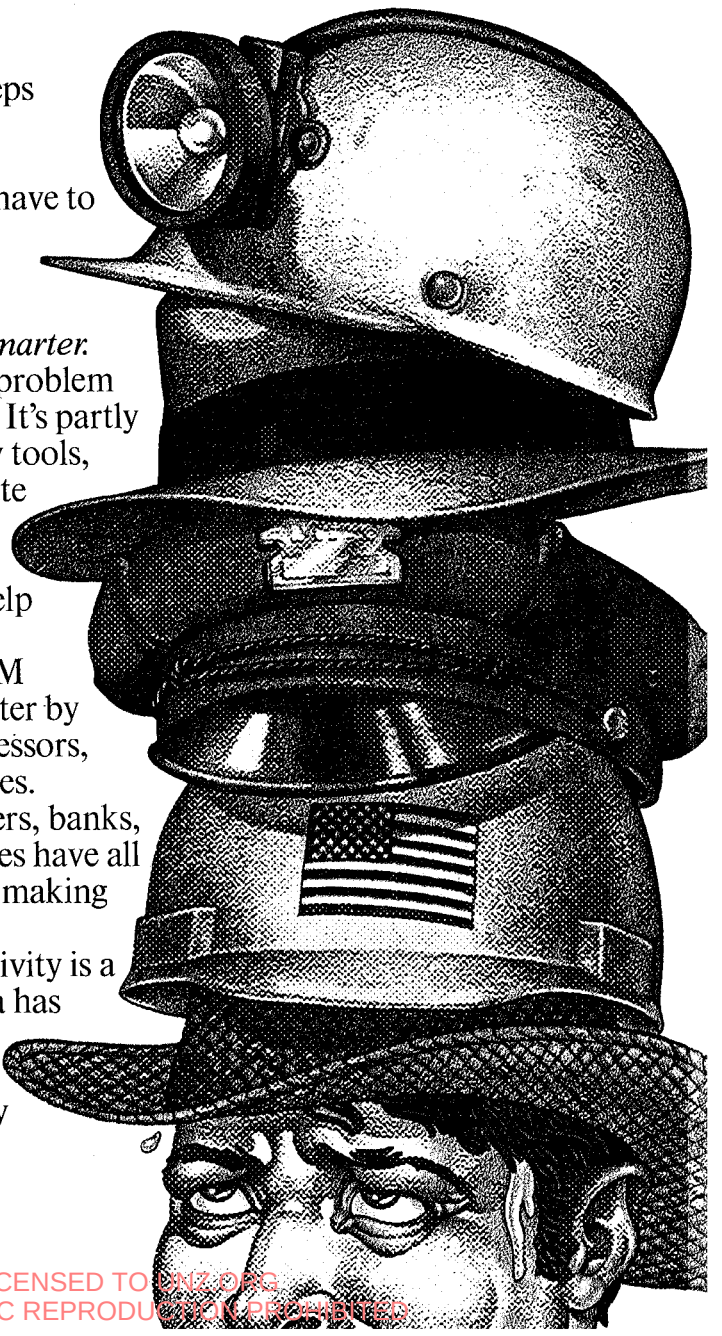

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